

FEDERAL REGISTER

VOLUME 33 • NUMBER 185

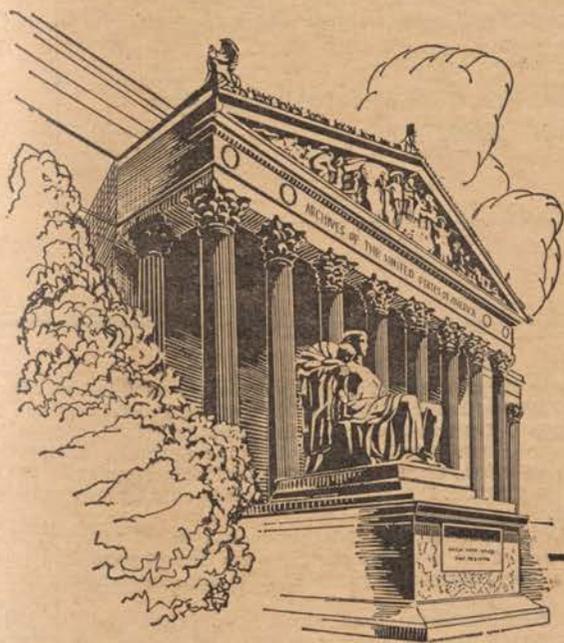
Saturday, September 21, 1968 • Washington, D.C.

Pages 14273-14344

Agencies in this issue—

Agricultural Research Service
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Emergency Planning Office
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Railroad Administration
Federal Trade Commission
Fish and Wildlife Service
General Services Administration
Internal Revenue Service
Interstate Commerce Commission
Land Management Bureau
National Shipping Authority
Packers and Stockyards
Administration
Patent Office
Securities and Exchange Commission
Small Business Administration
Wage and Hour Division

Detailed list of Contents appears inside.



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

HARRY S. TRUMAN

1945.....	\$5. 50	1949.....	\$6. 75
1946.....	\$6. 00	1950.....	\$7. 75
1947.....	\$5. 25	1951.....	\$6. 25
1948.....	\$9. 75	1952-53.....	\$9. 00

DWIGHT D. EISENHOWER

1953.....	\$6. 75	1957.....	\$6. 75
1954.....	\$7. 25	1958.....	\$8. 25
1955.....	\$6. 75	1959.....	\$7. 00
1956.....	\$7. 25	1960-61.....	\$7. 75

JOHN F. KENNEDY

1961.....	\$9. 00	1962.....	\$9. 00
1963.....	\$9. 00		

LYNDON B. JOHNSON

1963-64 (Book I).....	\$6. 75	1965 (Book I).....	\$6. 25
1963-64 (Book II).....	\$7. 00	1965 (Book II).....	\$6. 25
	1966 (Book I).....		\$6. 50
	1966 (Book II).....		\$7. 00

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

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



Area Code 202

Phone 962-8626

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

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

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

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

AGRICULTURAL RESEARCH SERVICE

- Rules and Regulations**
 Citrus fruits; foreign quarantine notices 14282
 Duck virus enteritis (duck plague); areas quarantined.... 14284

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Commodity Credit Corporation; Consumer and Marketing Service; Federal Crop Insurance Corporation; Packers and Stockyards Administration.

COMMERCE DEPARTMENT

See Maritime Administration; National Shipping Authority, Patent Office.

COMMODITY CREDIT CORPORATION

- Rules and Regulations**
 Wheat; loan and purchase program, 1968..... 14284

CONSUMER AND MARKETING SERVICE

- Rules and Regulations**
 Fresh Bartlett pears grown in Oregon and Washington; expenses and rate of assessment... 14283
Handling limitations:
 Lemons grown in California and Arizona 14283
 Valencia oranges grown in Arizona and designated part of California 14282
 Oranges grown in Lower Rio Grande Valley in Texas; shipment limitations..... 14282
Proposed Rule Making
 Milk handling:
 Cincinnati marketing area..... 14302
 Great Basin marketing area..... 14325
 St. Louis, Ozarks and Fort Smith marketing areas..... 14302

CUSTOMS BUREAU

- Notices**
 Tuners from Japan; antidumping proceeding notice..... 14330

EMERGENCY PLANNING OFFICE

- Notices**
 Hawaii; notice of major disaster... 14336

FEDERAL AVIATION ADMINISTRATION

- Rules and Regulations**
 Control zone and transition area:
 Alteration 14285
 Designation and alteration..... 14285
 Transition area; alteration (2 documents)..... 14284, 14285

FEDERAL COMMUNICATIONS COMMISSION

- Rules and Regulations**
 Aviation services; security control of air traffic and air navigation aids..... 14299
 Search and rescue operations..... 14296
Notices
 Standard broadcast application ready and available for processing 14331

FEDERAL CROP INSURANCE CORPORATION

- Rules and Regulations**
 Crop insurance; application; correction 14282

FEDERAL MARITIME COMMISSION

- Notices**
 International Traffic & Trade Specialists, Inc.; order of revocation of license..... 14331

FEDERAL POWER COMMISSION

- Notices**
Hearings, etc.:
 Arkansas Louisiana Gas Co. (2 documents) 14331, 14332
 Cities Service Gas Co. (2 documents) 14332
 El Paso Natural Gas Co. (2 documents) 14333
 Midwestern Gas Transmission Co 14334
 Mountain Gas Co., and Cabot Corp 14334
 Northern Natural Gas Co..... 14335
 Southern Natural Gas Co..... 14335
 Trunkline Gas Co..... 14336

FEDERAL RAILROAD ADMINISTRATION

- Proposed Rule Making**
 Procedures for prescribing regulations 14327

FEDERAL TRADE COMMISSION

- Rules and Regulations**
 S.S.S. Co., and Tucker Wayne & Co.; prohibited trade practices; correction 14286

FISH AND WILDLIFE SERVICE

- Rules and Regulations**
 Hunting in certain wildlife refuges:
 Arizona 14300
 Colorado (2 documents)..... 14299, 14300
 Kansas (2 documents)..... 14300
 Oklahoma (2 documents)..... 14300, 14301

GENERAL SERVICES ADMINISTRATION

- Rules and Regulations**
 Procurement of construction..... 14287

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau.

INTERNAL REVENUE SERVICE

- Proposed Rule Making**
 Interest equalization tax; correction 14302

INTERSTATE COMMERCE COMMISSION

- Notices**
 Fourth section applications for relief (2 documents)..... 14338, 14339
Motor carrier:
 Temporary authority applications (2 documents)..... 14339, 14340
 Transfer proceedings (2 documents) 14341
 Southern territory; incentive rates and detention rules..... 14339
 Wuerker, Alexander W.; statement of changes in financial interests.. 14339

LABOR DEPARTMENT

See Wage and Hour Division.

LAND MANAGEMENT BUREAU

- Notices**
 Idaho; proposed withdrawal and reservation of lands..... 14330
 Nevada; notice of public sale of land 14330

MARITIME ADMINISTRATION

- See also National Shipping Authority.
Rules and Regulations
 Values for war risk insurance..... 14277

NATIONAL SHIPPING AUTHORITY

- Rules and Regulations**
 General agents; compensation payable for husbanding services, etc 14286

PACKERS AND STOCKYARDS ADMINISTRATION

- Notices**
 Nelson Livestock Auctions, Inc., et al.; notice of changes in names of posted stockyards.... 14331

PATENT OFFICE

- Proposed Rule Making**
 Rules of practice in patent cases; increase of miscellaneous fees and charges..... 14327

(Continued on next page)

**SECURITIES AND EXCHANGE
COMMISSION****Rules and Regulations**

Broker-dealer management;
supervisory responsibilities..... 14286

Notices*Hearings, etc.:*

American Standard, Inc..... 14336
Armstrong Cork Co., et al..... 14336
Consumers Power Co. (Michigan)
..... 14337
Fisher Scientific Co., et al..... 14337
Municipal Investment Trust
Funds, Series L..... 14338
Pargas Inc., and Jim Walter
Corp..... 14337
Rover Shoe Co..... 14337
Royston Coalition Mines, Ltd..... 14337

**SMALL BUSINESS
ADMINISTRATION****Notices**

Equilease Capital Corp.; issuance
of small business investment
company license..... 14338

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration;
Federal Railroad Administration.

TREASURY DEPARTMENT

See Customs Bureau; Internal
Revenue Service.

WAGE AND HOUR DIVISION**Proposed Rule Making**

Records to be kept by employers;
retail or service establishment
commission employees..... 14327

List of CFR Parts Affected

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

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

7 CFR

319..... 14282
401..... 14282
906..... 14282
908..... 14282
910..... 14283
931..... 14283
1421..... 14284

PROPOSED RULES:

1033..... 14302
1062..... 14302
1067..... 14302
1102..... 14302
1136..... 14325

9 CFR

83..... 14284

14 CFR

71 (4 documents)..... 14284, 14285

16 CFR

13..... 14286

17 CFR

241..... 14286

26 CFR**PROPOSED RULES:**

147..... 14302

29 CFR**PROPOSED RULES:**

516..... 14327

32A CFR

NSA (Chapter XVIII):
AGE-4..... 14286

37 CFR**PROPOSED RULES:**

1..... 14327

41 CFR

1-2..... 14287
1-6..... 14287
1-8..... 14287
1-10..... 14287
1-12..... 14287
1-16..... 14287
1-18..... 14288

46 CFR

309..... 14277

47 CFR

2..... 14296
87 (2 documents)..... 14296, 14299

49 CFR**PROPOSED RULES:**

410..... 14327

50 CFR

32 (7 documents)..... 14299-14301

Rules and Regulations

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 82, 19th Rev.]

PART 309—VALUES FOR WAR RISK INSURANCE

Miscellaneous Amendments

Sections 309.1-309.101 of this part are hereby revised to read as follows:

FINDINGS AND SCOPE

Sec.	
309.1	Findings.
309.2	Scope.

BASIC VALUES

309.3	Vessels built during or after 1939.
309.4	Vessels built prior to 1939.

GENERAL PROVISIONS

309.5	Adjustments for condition, equipment, and other considerations.
309.6	Definitions.
309.7	Modifications.
309.8	Vessel data forms.

VALUES FOR INDIVIDUAL VESSELS

309.101	Values effective July 1, 1968.
---------	--------------------------------

AUTHORITY: Sections 309.1 through 309.101 issued under sec. 204, 49 Stat. 1987, as amended, sec. 1209, 64 Stat. 775, as amended, 70 Stat. 984; 46 U.S.C. 1114, 1289.

FINDINGS AND SCOPE

§ 309.1 Findings.

The Ship Valuation Committee, Maritime Administration, has found that the values provided in this part constitute just compensation for the vessels to which they apply, computed in accordance with subsection 902(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242), pursuant to section 1209(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1289(a)), and the authority delegated to the Maritime Administrator by the Secretary of Commerce in section 3 of Department Order No. 117-A, effective May 20, 1966 (31 F.R. 8087), and redelegated to the Ship Valuation Committee (28 F.R. 12330, Nov. 21, 1963).

§ 309.2 Scope.

(a) *Vessels included.* (1) This part establishes values for self-propelled oceangoing iron and steel vessels (other than vessels excluded pursuant to paragraph (b) of this section) for which war risk insurance is provided by the Maritime Administration pursuant to Title XII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1281-1294). The values established by §§ 309.1-309.101 represent the maximum amounts for

which the Maritime Administration will provide war risk hull insurance for damage to or actual or constructive total loss of the vessel and for which claims for damage to or actual or constructive total loss of such insured vessels may be adjusted, compromised, settled, adjudged, or paid by the Maritime Administration with respect to insurance attaching during the period July 1, 1968, to December 31, 1968, inclusive, under the standard forms of war risk hull insurance interim binder or policy prescribed by §§ 308.106 and 308.107 of this chapter (General Order 75, 2d Rev., as amended): *Provided, however,* That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period.

(2) It is contemplated that the next revised values will be published as soon as practicable after January 1, 1969, to be effective with respect to insurance attaching during the period January 1, 1969, to June 30, 1969, inclusive.

(b) *Vessels excluded.* The values established pursuant to §§ 309.3 through 309.5 do not apply to passenger vessels, lumber schooners, car ferries, seatrains, cable ships, bulk cement and ore carriers, vessels operated on the Great Lakes and inland waterways, fully refrigerated vessels, vessels of less than 1,500 gross tons, of any other vessels or class of vessels to which the Maritime Administration finds that the provisions of said sections would not be appropriate. Values for vessels excluded by this paragraph (b) shall be specifically determined by the Maritime Administration and set forth in § 309.101, revised, as provided therein.

(c) *Fuel, stores, and supplies.* Values for fuel, stores, and supplies shall be determined in accordance with §§ 309.201 through 309.204 (General Order 100, 29 F.R. 2944, Mar. 4, 1964; 29 F.R. 3706, Mar. 25, 1964).

BASIC VALUES

§ 309.3 Vessels built during or after 1939.

(a) *Basic values.* The values of vessels built during or after 1939 shall be determined in accordance with this section, subject to the applicable adjustments provided in § 309.5.

(b) *War-built vessels.* (1) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (1) which have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel	Value
EC2-S-C1	\$180,000
EC2-S-AW1	180,000
VC2-S-AP2	400,000
C1-M-AV1	175,000
C1-A and B (Steam)	230,000
C1-A and B (Diesel)	215,000
C2-S-B1	450,000
C3-S-A2	950,000
C4-S-B5	1,500,000
T1-M-BT	180,000
T2-SE-A1	700,000
T3-S-BZ1	1,000,000
T3-S-A1	650,000

(2) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (2) which do not have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel	Value
VC2-S-AP2	\$350,000
T2-SE-A1	435,000
T3-S-A1	400,000

(3) The values of the standard types of war-built vessels under foreign flag listed in this subparagraph (3) (which are the lower of (i) the restricted world market values, or (ii) the domestic market values of comparable U.S. flag vessels which do not have the lawful right to engage in the coastwise trade of the United States, as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel	Value
T2-SE-A1	\$290,000
T3-S-A1	260,000

(4) The values of the standard subtypes of war-built vessels listed in this subparagraph (4) shall be determined as follows:

(i) If the subtype vessel is under U.S. flag and has the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard-type vessel listed in subparagraph (1) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4), or

(ii) If the subtype vessel is under the U.S. flag but does not have the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard-type vessel listed in subparagraph (2) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4), or

(iii) If the subtype vessel is under foreign flag, by multiplying the basic value of the standard type vessel listed in subparagraph (3) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (4).

TABLE

Subtype	Factor
VC2-S-AP3	106%—VC-S-AP2
C2-S-A1	80%—C2-S-B1
C2-S-AJ1	100%—C2-S-B1
C2-S-AJ2	100%—C2-S-B1
C2-S-AJ3	100%—C2-S-B1
C2-S-AJ5	100%—C2-S-B1
C2	88%—C2-S-B1
C2-S-E1	102%—C2-S-B1
C2-F	100%—C2-S-B1
C2-S	92%—C2-S-B1
C3	90%—C3-S-A2
C3-S-A1	100%—C3-S-A2
C3-S-A3	76%—C3-S-A2
C3-S-A4	106%—C3-S-A2
C3-S-A5	106%—C3-S-A2
C3-E	71%—C3-S-A2
C3-M	100%—C3-S-A2
C3-S-BH1	100%—C3-S-A2
C3-S-BH2	100%—C3-S-A2
C4-S-A4	100%—C4-S-B5
T1-M-BT1	100%—T1-M-BT
T1-M-BT2	100%—T1-M-BT

(c) *Other vessels.* The value of a vessel built during or after 1939 which is not included in paragraph (b) of this section shall be the current domestic market value as determined by the Maritime Administration.

§ 309.4 Vessels built prior to 1939.

The values of vessels built prior to 1939 shall be specifically determined by the Maritime Administration and set forth in § 309.101.

GENERAL PROVISIONS

§ 309.5 Adjustments for condition, equipment and other considerations.

The basic values provided in § 309.3 shall be adjusted for individual vessels to the extent provided in paragraphs (a) to (c) of this section.

(a) *Adjustment for a vessel of substandard condition.* If the Maritime Administration determines that a vessel is not in class or is in substandard condition for a vessel of her type or subtype and age, there will be subtracted from the basic value of such vessel, as determined pursuant to § 309.3, the amount estimated by the Maritime Administration as the cost of putting the vessel in class or the amount estimated by the Maritime Administration as the difference in value of the substandard vessel and a vessel in standard condition.

(b) *Special equipment.* For any special equipment of material utility in the handling of cargo or utilization of the vessel, not otherwise included in determining the basic value pursuant to § 309.3, if the depreciated reproduction cost less construction subsidy, if any, of all such special equipment is in excess of \$50,000, an allowance in such amount as the Maritime Administration shall determine to be the fair and reasonable value of such equipment, shall be added to the basic value.

(c) *Government installations.* The values provided by §§ 309.1–309.101 shall not include any allowance for any special installations or equipment to the extent that their cost was borne by the United States.

§ 309.6 Definitions.

(a) *Date vessel is built.* The date a vessel is built is the date upon which the vessel is delivered by the shipbuilder.

(b) *Deadweight tonnage.* The deadweight tonnage of a vessel means her deadweight capacity established in accordance with normal Summer Freeboard as assigned pursuant to the International Load Line Convention, 1966, and shall be her capacity (in tons of 2,240 pounds) for cargo, fuel, fresh water, spare parts, and stores, but exclusive of permanent ballast.

(c) *Speed of vessel.* The speed of a vessel means the speed determined in accordance with the formulae provided in Part 246 of this chapter (General Order 43, 3d Rev.).

(d) *Passenger vessel.* A passenger vessel is a ship which carries more than 12 passengers.

(e) *Vessel.* The stated valuation of a vessel in this part applies to a vessel in Class A-1 American Bureau of Shipping or equivalent, with all required certificates, including but not limited to marine inspection certificates of the U.S. Coast Guard, Department of Transportation, with all outstanding requirements and recommendations necessary for retention of class accomplished, without regard to any grace period; and so far as due diligence can make her so, tight, staunch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, with clean swept holds and in all respects fit for service. A vessel in substandard condition is subject to § 309.5(a). The stated valuation of a vessel provided in this part does not include vessel stores and supplies, which consist of (1) consumable stores, (2) subsistence stores, (3) slop chest, (4) bar stock, and (5) fuel, as defined in Maritime Administration Inventory Manual, Vessel Inventories, Part I, and Maritime Administration Inventory Books Forms MA-4736, A through K, which will be valued separately.

§ 309.7 Modifications.

The Maritime Administration reserves the right to exempt specific vessels from the scope of this part, or to amend, modify, or terminate the provisions hereof.

§ 309.8 Vessel data forms.

(a) *To accompany application for insurance.* Each application for war risk hull insurance submitted in accordance with § 308.101 of this chapter (General Order 75, 2d Revision, as amended) shall be accompanied by information relating to the vessel for use by the Maritime Administration in determining the value pursuant to this part. The information shall be submitted in duplicate on the applicable form prescribed in this section, copies of which may be obtained from the American War Risk Agency, 99 John Street, New York, N.Y. 10038, or the Chief, Division of Insurance, Maritime Administration, Washington, D.C. 20235.

(b) *Vessels of 1,500 gross tons or more.* Vessel data for all vessels of 1,500 gross tons or more shall be submitted on Form MA-510.

(c) *Vessels under 1,500 gross tons.* Vessel data for all vessels under 1,500 gross tons shall be submitted on Form MA-511.

(d) *Modification to vessels.* Revised vessel data shall be submitted on the appropriate form prescribed above whenever a vessel undergoes a physical change which increases or decreases its value by 5 percent or more.

VALUES FOR INDIVIDUAL VESSELS

§ 309.101 Values effective July 1, 1968.

(a) *Vessels covered by §§ 309.3 through 309.5.* (1) The Maritime Administration has found that the values established in accordance with §§ 309.3–309.5 constitute just compensation for the vessel to which they apply, computed as provided in sections 902(a) and 1209 (a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of the vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed by Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1968, by inserting in the space provided therefor or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1968, to December 31, 1968, inclusive; *Provided, however,* That the Assured shall have the right within 60 days after date of publication of these §§ 309.1–309.101 or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209 (a) (2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
870	Achilles	281702	\$8,675
1660	Adabelle Lykes	291609	3,625
1426	African Comet	289281	4,590
720	African Crescent	250561	950
1683	African Dawn	291781	4,700
722	African Glade	245035	450
723	African Glen	247294	450
724	African Grove	244877	450
725	African Lightning	251451	950
1558	African Mercury	290143	4,690
1508	African Meteor	289792	4,625
726	African Moon	251175	950
1607	African Neptune	290455	4,890
730	African Planet	249860	950
731	African Rainbow	250116	950
732	African Star	249351	950
1656	African Sun	291025	4,700
1751	Aimee Lykes	292614	3,625
695	Alamar	245810	240
1299	Alaska Bear	246004	424
1793	Alcoa Commander	248327	450
1793	Alcoa Explorer	248335	450
1620	Alcoa Mariner	247572	450
1748	Alcoa Marketer	245539	450
1711	Alcoa Master	253572	450
1802	Alcoa Trader	248144	450
1749	Alcoa Voyager	263289	450
1850	Aldina	239754	605

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)	Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)	Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
1828	Allison Lykes	203817	\$3, 770	426	Canada Bear	247385	\$424	993	Esso Huntington	266329	\$3, 660
1852	Alma Victory	248201	424	1974	Canada Mail	297570	5, 340	994	Esso Jamestown	275519	7, 350
370	Alma Lykes	248606	950	2390	Canterbury Falcon	247590	4, 450	995	Esso Lexington	276270	7, 485
352	Aloha State	243297	950	1370	Canigny	247452	2, 845	996	Esso Lima	259142	2, 820
2366	America Bear	252443	4, 500	07	Carbide Seadrift	241851	2, 050	992	Esso Miami	259357	2, 820
1493	American Challenger	289699	4, 690	08	Carbide Texas City	242322	2, 050	1313	Esso Montevideo	277170	7, 175
1618	American Champion	290524	4, 690	1600	C. E. Dant	290262	4, 925	997	Esso Newark	264231	3, 290
1537	American Charger	290089	4, 690	2455	Centerville	244881	4, 500	998	Esso New York	269610	2, 885
1652	American Chieftain	291020	4, 690	1031	Chancellorsville	244400	2, 585	1314	Esso Norfolk	279100	2, 890
531	American Clipper	249106	4, 500	373	Charles Lykes	248487	4, 500	1315	Esso Santos	279100	2, 890
1972	American Condor	252347	4, 690	1753	Charlotte Lykes	292782	3, 625	1014	Esso Seranton	245830	700
1670	American Corsair	291629	4, 690	2258	Chatham	252493	4, 500	1898	Esso Seattle	277935	6, 860
1605	American Courier	290225	4, 690	2456	Chatham	247366	4, 000	2117	Esso Spain	277935	6, 175
831	American Eagle	278327	6, 950	243	Chena	242704	1, 950	1009	Esso Washington	273596	7, 150
1769	American Falcon	252524	595	597	Cherry Valley	242531	700	379	Eugene Lykes	248051	4, 500
534	American Forester	248074	4, 500	964	Chevron	250641	180	2079	Evanthie	240203	855
535	American Forwarder	248946	4, 500	1841	Chevron Transporter	132	870	354	Evergreen State	257827	950
1791	American Hawk	245969	950	1886	Chevron Venice	2076-249	870	842	Exbrook	249173	722
540	American Importer	248947	4, 500	610	Chilore	253219	2, 125	846	Exchester	243891	722
940	American Leader	249517	4, 500	1408	China Bear	288604	5, 650	848	Excolster	244129	722
542	American Manufacturer	247321	950	2213	Choctaw	242785	4, 500	849	Exchester	248120	722
545	American Miller	243873	4, 500	2280	Choctaw Victory	247420	424	850	Exceptor	248747	722
1688	American Oriole	252304	950	1788	Christopher Lykes	293220	3, 770	851	Exemplar	239865	675
546	American Packer	243982	4, 500	1637	Cibao	251966	530	833	Exford	249454	722
547	American Pilot	248491	4, 500	1813	Cities Service Baltimore	271866	5, 965	855	Exlona	252303	722
2236	American Pride	247252	424	1814	Cities Service Miami	272077	5, 965	857	Exminster	245078	722
550	American Producer	254616	4, 500	1815	Cities Service Norfolk	272839	6, 110	858	Expedito	251971	722
1924	American Racer	297001	5, 300	1050	Cities Service Valley Forge	401	1, 500	860	Export Adventurer	280424	3, 515
1989	American Ranger	298270	5, 300	2214	City of Alma	247592	459	861	Export Agent	283936	3, 515
2639	American Reliance	299371	5, 410	2410	Claiborne	242378	450	862	Export Aide	284516	3, 515
2082	American Resolute	500539	5, 445	1967	Cleveland	243450	700	863	Export Ambassador	283150	3, 515
1679	American Robin	242941	950	266	Goeur d'Alene Victory	247113	424	1296	Export Banner	286124	4, 485
1955	American Rover	297353	5, 300	273	Coe Victory	247894	424	1354	Export Bay	280665	4, 485
554	American Scientist	254653	4, 500	186	Colma	242775	700	1372	Export Builder	287381	4, 485
555	American Scout	249122	4, 500	2237	Colorado	245104	700	1401	Export Buyer	288076	4, 485
556	American Shipper	248949	4, 500	2134	Columbia	247519	2, 590	1726	Export Challenger	292227	4, 710
1902	American Trader	244855	5, 490	2377	Columbia Banker	248842	400	1771	Export Champion	292660	4, 755
560	American Traveler	249123	4, 500	1978	Columbia Trader	247765	400	1712	Export Commerce	291731	4, 695
561	American Veteran	247296	4, 500	1628	Comayagua	249059	610	1601	Export Courier	289947	4, 600
2285	Amorigo	246798	4, 500	1997	Commander	245309	2, 450	864	Exporter	249062	722
772	Ames Victory	247292	424	2227	Connecticut	277291	7, 000	865	Express	252376	722
1485	Amoco Connecticut	242851	2, 040	1588	Conoco Dubal	1650	1, 035	1938	Express Virginia	249290	4, 500
1488	Amoco Delaware	245058	1, 980	1589	Conoco Sopi	1695	1, 080	866	Extavia	241079	360
1768	Amoco Louisiana	244329	2, 205	2372	Container Despatcher	249749	5, 975	2075	Fairisle	245627	424
1484	Amoco New York	244801	725	2373	Container Forwarder	250117	5, 975	262	Fairland	242073	1, 900
1486	Amoco Virginia	243518	725	712	Copper State	244137	950	2216	Fairport	249072	459
641	Amtank	247968	1, 000	2426	Corco El Tigre	2609	1, 740	2457	Falmouth	246897	459
1914	Anchorage	246736	3, 025	2302	Cortex	253116	450	2217	Fanwood	252335	450
2211	Andrew Jackson	247303	459	2468	Cortland	244878	450	1536	F. E. Weyerhaeuser	245564	230
19	Angelo Petri	243882	3, 600	713	Cotton State	248440	400	153	Floridian	282733	1, 050
1040	A. N. Kemp	149	890	704	Cottonwood Creek	240864	1, 550	1810	Florida Hill	252446	4, 500
2212	Anthous	245973	459	1305	Council Grove	247896	2, 750	221	Flying A-Delaware	267997	3, 500
678	Arizona	266534	2, 800	1051	Cradle of Liberty	467	1, 585	2278	Flying A-New York	267198	3, 605
1444	Arizona Standard	248736	700	1538	C. R. Musser	246754	250	1469	Flying Clipper	252991	450
1039	Ashley Lykes	292191	3, 625	137	Cynthia Olson	253441	250	1480	Flying Cloud	247000	450
269	Atholl McBean	141	880	1343	David D. Irwin	242344	98	1408	Flying Eagle	251694	450
232	Atlantic Communicator	268196	4, 150	212	David E. Day	248880	2, 940	1470	Flying Endeavor	241026	450
233	Atlantic Endeavor	277623	6, 220	2449	DeGama	249174	2, 395	1474	Flying Enterprise II	245734	414
224	Atlantic Engineer	261167	3, 550	318	Del Alba	249665	4, 450	2265	Flying Fish	241099	450
234	Atlantic Engineer	279911	6, 150	165	Delaware Sun	264853	3, 820	2265	Flying Foam	239005	910
1004	Atlantic Enterprise	261423	3, 585	320	Del Campo	241923	215	1471	Flying Hawk	240632	414
1006	Atlantic Navigator	247475	2, 180	323	Del Mar	251452	570	1478	Flying Hawk	246217	230
2209	Atlantic Trader	248007	2, 180	320	Del Monte	246628	215	1481	Flying Spray	246217	230
418	Attleboro Victory	247475	2, 180	323	Del Norte	245376	450	584	Flying Trader	248750	400
1435	Austin	247455	2, 880	322	Del Mundo	250053	570	1211	Flying Trader	244935	2, 105
2083	Australian Galaxy	248813	4, 500	1225	Del Oro	286185	4, 180	1211	Fort Fort	248735	2, 780
2093	Australian Gem	248815	4, 500	324	Del Rio	284680	4, 180	247	Fortuna	245880	1, 180
2094	Australian Gulf	248812	4, 500	325	Del Santos	245377	4, 180	180	Fort Worth	244726	4, 890
2099	Australian Isle	256787	470	327	Del Sol	285171	4, 180	498	Four Lakes	244971	2, 205
2040	Australian Reef	244020	470	328	Del Sud	251453	570	1630	Fra Berlanga	247102	610
2090	Australian Surf	254842	470	329	Del Valle	245373	570	380	Frank Lykes	245540	450
210	Avila	267181	1, 595	2215	De Soto	245398	459	2300	Frederick Lykes	506812	5, 620
239	Azalea City	243436	1, 900	375	Dick Lykes	248488	450	2142	Free America	244794	4, 500
707	Badger State	245136	450	376	Doctor Lykes	249063	950	962	F. S. Bryant	250827	645
2067	Baltimore Trader	245965	700	377	Dolly Turman	249747	450	1035	Gage Lund	217	945
980	Barbara	248079	2, 780	2330	Dolly Turman	508378	5, 675	585	Gaines Mill	244464	2, 075
347	Barbara Jane	278103	6, 920	1681	Duval	246641	250	1839	Garden City	252444	450
2261	Battle Creek	247316	424	700	Eagle Courier	277561	6, 100	948	Garden State	248057	424
708	Bayou State	254012	450	699	Eagle Transporter	277710	6, 090	263	Gateway City	251506	1, 900
949	Bay State	254130	450	697	Eagle Traveler	278442	7, 000	1539	George S. Long	245913	250
1915	Beauregard	251508	1, 900	698	Eagle Voyager	278624	6, 985	384	Gibbes Lykes	245182	450
1765	Beloit Victory	245883	3, 424	167	Eastern Sun	270025	4, 345	1885	Glory of the Seas	245169	450
947	Bengal Mail	248844	950	2382	East Hills	245914	4, 500	428	Golden Bear	260928	3, 110
594	Bennington	242406	700	187	Eclipse	267144	3, 375	714	Golden State	246544	400
607	Bethlor	256034	2, 125	2420	Eldorado	252567	3, 750	355	Gopher State	244979	950
608	Bethtex	256539	2, 125	378	Elizabeth Lykes	247822	450	2073	Green Bay	248912	1, 755
419	Biddeford Victory	248433	350	2086	Elizabeth Lykes	500702	5, 380	585	Green Cove	247268	450
261	Bienville	243438	1, 900	1917	Elizabethport	297001	4, 215	1129	Green Dale	251748	450
2107	Blue Grass State	253866	450	1623	Elwell	245837	450	2408	Green Forest	508061	1, 765
1967	Boise Victory	248786	424	705	Empire State	249283	450	886	Green Harbour	247760	975
1816	Bowling Green	244750	450	2451	Ericon	280103	7, 230	887	Green Island	247079	975
1490	Bradford Island	247640	700	850	Erna Elizabeth	248253	610	2036	Green Lake	248700	1, 755
1513	Brazos	247583	4, 250	1629	Esso Baltimore	282272	9, 600	950	Green Mountain State	247322	950
1414	Brinton Lykes	4445-59	2, 520	987	Esso Bangor	264791	3, 660	1901			

RULES AND REGULATIONS

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)	Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)	Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
795	Gulfsking	275193	\$6,440	2105	Marathon Victory	248563	\$424	1827	Overseas Anna	266619	\$3,600
796	Gulfnight	277183	6,725	1809	Margaret Lykes	293555	3,770	2344	Overseas Carrier	243503	2,450
797	Gulfion	246990	2,190	2284	Marine Chemical Transporter	244942	970	2112	Overseas Dinny	244215	450
808	Gulfube	254406	690	2087	Marine Clipper	248655	540	2443	Overseas Edgar	243882	1,500
1952	Gulf Merchant	297329	3,940	2077	Marine Collier	247479	290	931	Overseas Evelyn	249217	1,500
798	Gulfoil	283424	6,630	15	Marine Dow-Chem.	267278	3,895	1764	Overseas Explorer	297748	2,450
799	Gulfpantber	246544	2,055	2393	Marine Eagle	245495	700	2411	Overseas Horace	245644	950
800	Gulfpride	279769	6,350	1510	Marine Electric	245675	2,940	2444	Overseas Jason	248884	1,600
801	Gulfprince	276034	6,595	92	Marine Merchant	247867	180	01	Overseas Joyce	284049	9,665
802	Gulfqueen	275583	6,500	1570	Marine Transport	247991	180	2427	Overseas Lena	244049	950
805	Gulfseal	247557	2,200	93	Marine Victory	247680	1,385	2352	Overseas Progress	244888	2,450
811	Gulfservice	264224	1,485	1513	Marjorie Lykes	289873	3,625	1905	Overseas Rebecca	281777	9,800
1903	Gulf Shipper	296880	3,940	614	Marore	249314	1,985	785	Overseas Rose	245923	950
803	Gulfsolar	280223	6,315	188	Maryland Sun	246101	700	2343	Overseas Traveler	289436	2,700
806	Gulfspray	282848	6,580	664	Maryland Trader	247178	2,295	932	Overseas Ulla	280004	7,500
1358	Gulfsupreme	287186	7,065	1940	Marymar	294730	4,150	1932	Pacific Bear	242315	450
804	Gulftiger	247767	2,200	2260	Mason Lykes	505406	5,530	717	Palmetto State	247823	400
1888	Gulf Trader	296404	3,940	2448	Maury	249027	450	1635	Parismina	261313	645
1659	Halcyon Panther	245922	424	1748	Mayo Lykes	249027	450	181	Pasadena	248894	3,260
2335	Halcyon Tiger	246474	424	1512	Meadowbrook	289879	2,005	1037	Paul Pigott	163	900
646	Hampton Roads	245748	1,000	969	M. E. Lombardi	240228	340	1272	P. O. Spencer	264903	3,130
2423	Hans Isbrandtsen	277703	6,810	1980	Merrimac	245673	2,450	1658	Peary	247468	2,700
2158	Harbor Hills	245131	230	450	Merrimac	252158	645	2121	Pecos	243929	950
412	Harry Culbreath	247824	450	1634	Meteor	247331	250	718	Pelican State	245354	424
2218	Hastings	246617	459	1286	Michigan	240590	950	1322	Penn Carrier	246908	700
1421	Hawaii	289119	4,925	681	Mill Spring	244468	2,175	1342	Penn Challenger	280318	7,735
298	Hawaiian	249353	2,610	2033	Missouri	248885	1,780	1954	Penn Exporter	247099	1,350
300	Hawaiian Builder	247386	950	1530	M. M. Dant	289547	4,925	1860	Pennmar	295108	4,150
985	Hawaiian Citizen	252149	3,540	188	Mobil Aero	278471	6,525	1008	Penn Sailor	275391	2,075
303	Hawaiian Farmer	245860	950	189	Mobil Fuel	274588	5,575	171	Pennsylvania Sun	280202	9,800
304	Hawaiian Merchant	248845	950	190	Mobilgas	271449	4,945	1008	Penn Transporter	248437	1,550
308	Hawaiian Rancher	246204	950	191	Mobil Lub.	275651	5,725	341	Penn Vanguard	242780	2,500
309	Hawaiian Refiner	245594	950	192	Mobil Oil	279664	6,610	581	Perryville	244644	2,520
1445	Hawaii Standard	248802	700	193	Mobil Power	274966	5,620	1367	Phillipine Bear	287683	5,650
965	H. D. Collier	248737	700	2405	Mohawk	248913	1,585	1419	Phillipine Mail	288986	4,825
873	Helen H.	245029	2,450	2095	Monas Pass	2389	290	2289	Phillips Kansas	1813	6,540
1631	Heredia	251777	645	601	Mormouth	242426	700	2276	Phillips Louisiana	2026	6,700
2303	Hermuna	248657	400	1265	Monticello Victory	286819	9,870	2262	Phillips Oklahoma	1931	7,380
634	Hess Bunker	243804	2,585	1447	Montpelier Victory	289745	9,935	2379	Phillips Oregon	2123	7,380
638	Hess Petrol	244735	2,585	2024	Morazan	255793	530	2276	Phillips Texas	1596	2,995
1373	Hess Refiner	248244	2,620	1985	Mormacaltair	298129	5,300	2379	Pine Tree State	252346	950
639	Hess Trader	246104	2,555	1890	Mormacargo	296216	5,300	1653	Pioneer Commander	290905	4,600
1638	Hibueras	254899	530	29	Mormacbay	283541	4,250	1750	Pioneer Contender	292572	4,600
961	Hillyer Brown	266233	1,550	30	Mormacape	284185	4,325	1715	Pioneer Contractor	291968	4,600
431	Hong Kong Bear	264428	2,800	1383	Mormacave	286749	4,415	1774	Pioneer Crusader	292930	4,600
706	Hoosier State	247762	1,500	31	Mormacadawn	250160	1,007	562	Pioneer Cove	249748	4,450
1540	Horace Irvine	246933	250	2031	Mormacadroa	299008	5,300	566	Pioneer Main	266181	2,800
176	Houston	242636	2,880	33	Mormacadm	248393	424	567	Pioneer Mart	267275	2,800
2306	Howell Lykes	507344	5,695	34	Mormacelm	248393	424	568	Pioneer Mill	266832	2,800
1252	Hudson	244463	1,550	1241	Mormacfr	248650	424	569	Pioneer Ming	268243	2,800
2472	Hurricane	257262	950	37	Mormacgen	285283	4,325	570	Pioneer Mix	266256	2,800
2220	Iberville	248489	459	37	Mormacgulf	249698	1,007	571	Pioneer Mist	267444	2,800
679	Idaho	252271	950	39	Mormacisle	249812	1,007	1432	Pioneer Moon	289263	4,600
968	Idaho Standard	245461	700	40	Mormaclake	284802	4,325	572	Pioneer Moor	265143	2,800
249	Illamna	246848	195	41	Mormacland	250161	1,007	574	Pioneer Myth	267033	2,800
677	Illinois	264957	2,800	1937	Mormaclynx	296947	5,300	578	Pioneer Tide	249030	450
432	India Bear	252398	450	42	Mormacmail	250539	1,007	2122	Platte	248133	2,730
387	James Lykes	280564	3,335	44	Mormacmak	249595	424	1987	Plymouth Victory	245626	1,624
414	James McKay	247997	450	46	Mormacpenn	230541	434	1991	Point Fermi	241327	430
433	Japan Bear	270296	3,110	47	Mormacpenn	247477	1,007	1754	Point Loma	246882	700
1418	Japan Mail	287976	4,855	48	Mormacpenn	282295	4,195	1953	Point Sur	243263	700
945	Java Mail	252478	950	1963	Mormacpenn	297384	5,300	1999	Portmar	294731	4,150
1304	Jean Lykes	287103	3,480	50	Mormacrio	248745	950	1506	Potomac	248800	2,450
1285	J. E. Dyer	274440	6,345	51	Mormacsaga	250540	1,007	1390	Prairie Grove	246660	2,800
274	Jefferson City Victory	247345	424	1242	Mormacsaga	285890	4,325	499	Prairie Grove	290697	3,110
388	Jesse Lykes	247902	450	1384	Mormacstrade	287900	4,525	500	President Adams	264704	3,110
970	J. H. Macgregill	248896	700	1904	Mormacstrade	296632	5,300	501	President Buchanan	226011	3,110
973	J. H. Tuttle	242955	700	281	Mount Vernon Victory	284178	9,665	503	President Coolidge	267733	3,110
967	J. L. Hanna	248531	700	700	Mystic Mariner	284143	450	505	President Garfield	266902	3,110
2221	John B. Waterman	249234	459	250	Nadina	245864	190	521	President Harding	248275	1,007
829	John C.	242701	450	588	Naeo	244063	1,550	2148	President Harrison	502569	6,385
1017	John F. Shea	247095	975	1243	Nancy Lykes	286650	3,480	506	President Hayes	264440	3,110
389	John Lykes	282772	3,335	648	Nashbulk	247307	1,000	506	President Hoover	248424	1,007
1535	John Weyerhaeuser	246356	250	1758	National Defender	279938	11,885	511	President Jackson	266060	3,110
390	Joseph Lykes	281326	3,335	2034	Neches	244235	700	512	President Jefferson	250262	1,007
586	Julesburg	243523	2,230	251	Nenana	247015	180	513	President Johnson	257231	950
1632	Junior	248767	610	1441	Nevada Standard	247758	700	516	President Johnson	249953	1,007
413	Kendall Fish	248490	450	421	Newberry Victory	248460	400	517	President Madison	249683	1,007
415	Kenneth McKay	247581	450	169	New Jersey Sun	265748	3,905	2113	President Monroe	501712	5,385
598	Keystoner	266730	1,500	683	New York	248742	950	519	President Pierce	248619	1,007
356	Keystone State	247763	1,500	2038	New Yorker	283030	1,050	2084	President Polk	500484	5,280
599	Keytanker	266644	1,555	1668	Norberto Capay	244133	450	522	President Taylor	266927	2,450
600	Keytrader	267905	1,630	399	Norman Lykes	249018	950	919	Produce	245888	180
1996	Kings Point	239334	855	2119	Northfield	243253	2,585	228	Providence Getty	254689	5,470
434	Korea Bear	299668	3,110	2383	North Hills	245040	450	2210	Prudential Oceanjet	504015	5,435
2223	Kyska	248654	459	208	Northwestern Victory	247492	424	2139	Prudential Seajet	502726	280
13	Lealand I. Dean	284217	8,890	1466	Norwalk	245848	250	1573	Puerto Rico	243959	680
1352	Leslie Lykes	287416	3,480	2356	Observer	505883	3,535	2064	Pure Oil	248837	3,650
1052	Liberty Bell	519	1,595	2458	Oceanic Ondine	247031	400	1273	P. W. Thirle	252391	5,500
1633	Limon	247552	610	2460	Oceanic Tide	244612	450	1640	Quisqueya	248785	424
392	Lipscomb Lykes	248897	950	2461	Oceanic Victory	247440	400	2341	Rachel V	247026	250
2374	Lompoc	246053	700	684	Ohio	246388	950	1301	Rainbow	247026	450
715	Lonestar State	242705	950	170	Ohio Sun	244089	700	2450	Raleigh	249291	450
267	Longview Victory	247077	424	2381	Old Westbury	245338	450	1869	Ranger	244508	450
1918	Los Angeles	4213	4,215	1375	Oregon	287875	4,925	264	Rappahannock	242074	1,900
613	Losmar	241511	240	435	Oregon Bear	264497	2,800	2164	Rappahannock	270174	450
363	Louise Lykes	247582	450	1947	Oregon Mail	266779	5,270	1475	Remsen Heights	247865	400
2062	Louise Lykes	290638	5,285	971	Oregon Standard	246773	700	417	Remsen Heights	247830	450
367	Louisiana Sulphur	242904	1,375	1806	Oswego Defender	1588	2,810	09	B. E. Wilson	244090	770
2224	Madaket	246902	459	1807	Oswego Freedom	1448	2,580	1162	Richmond	241939	510
716	Magnolia State	247144	400	2088	Oswego Independence	2345	3,945	1038	Robert Watt Miller	- 172	950
2089	Maiden Creek	248998	459	2071	Oswego Liberty	2304	3,945	155	Robert Goodfellow	247254	950
2233	Mallory Lykes	504077	5,470	1808	Oswego Reliance	1522	2,700	156	Robin Gray	252626	950
1356	Manhattan	287253	16,800	2235	Oswego Venture	2545	4,115	157	Robin Hood	247255	950
275	Mankato Victory	248739	424	1825	Our Lady of Peace	247571	450	158	Robin Kirk	254272	950

RULES AND REGULATIONS

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
159	Robin Locksley	240353	\$414
160	Robin Mowbray	255316	950
161	Robin Sherwood	240805	414
162	Robin Trent	254641	950
400	Ruth Lykes	247503	450
2162	Ruth Lykes	502928	5,450
172	Sabine Sun	241558	660
1879	Sacramento	245497	2,460
2256	Sagamore Hill	252351	450
2459	Salisbury	245245	450
1919	San Francisco	241230	4,215
1636	San Jose	247934	610
1920	San Juan	243653	4,215
891	Santa Adela	242243	450
2295	Santa Alicia	252747	950
2259	Santa Ana	252746	950
2297	Santa Anita	252748	950
2370	Santa Barbara	509184	6,065
2296	Santa Clara	506249	5,815
2257	Santa Cruz	504681	5,700
2314	Santa Elena	507696	5,940
2287	Santa Eliana	251812	950
1811	Santa Emilia	247570	450
899	Santa Fe	246602	230
900	Santa Flavia	242762	450
901	Santa Ines	245836	450
2376	Santa Isabel	510570	6,065
903	Santa Juana	242111	450
2294	Santa Leonor	252525	950
2155	Santa Lucia	502774	5,700
1574	Santa Magdalena	290270	7,625
906	Santa Malta	245459	450
211	Santa Maria	263781	1,460
1756	Santa Maria	292838	7,625
1678	Santa Mariana	291811	7,625
1830	Santa Mercedes	293943	7,625
2286	Santa Regina	240348	855
893	Santa Victoria	245130	230
1641	Santo Cerro	252829	530
619	Santore	254624	2,125
1822	Sasstown	1876	990
2355	Seafarer	506676	3,465
1970	Seamar	294729	4,150
2057	Sea Pioneer	257115	2,575
2304	Seatrain Carolina	246066	6,000
2291	Seatrain Delaware	245682	2,560
2309	Seatrain Florida	503326	6,000
65	Seatrain Georgia	262558	1,000
66	Seatrain Louisiana	262885	1,000
2346	Seatrain Maine	504714	6,000
2329	Seatrain Maryland	245283	6,000
67	Seatrain New Jersey	293688	510
68	Seatrain New York	291905	295
2305	Seatrain Puerto Rico	243095	6,000
2279	Seatrain San Juan	245622	4,120
60	Seatrain Savannah	231916	295
70	Seatrain Texas	239549	510
2357	Seatrain Washington	245460	6,000
1921	Seattle	247275	3,025
1610	Sheldon Lykes	290508	3,625
1428	Shirley Lykes	289283	3,625
336	Sierra	247831	950
2464	Silver Falcon	248065	350
1476	Sir John Franklin	244734	230
1266	Sister Katingo	6,855	27,936
1642	Sixcola	254211	530
202	Socony Vacuum	268801	3,620
982	Solon Turman	285889	3,480
337	Sonoma	252413	950
357	Sooner State	247139	450
1803	Southport II	245183	450
1049	Statue of Liberty	420	1,570
1016	Steel Admiral	252403	950
439	Steel Advocate	245731	950
440	Steel Age	244161	950
441	Steel Apprentice	252498	950
442	Steel Architect	247168	950
443	Steel Artisan	247833	950
444	Steel Chemist	252037	950
445	Steel Designer	247832	950
446	Steel Director	244978	950
447	Steel Executive	248843	950
448	Steel Fabricator	251781	950
449	Steel Flyer	244831	950
450	Steel Kinger	252499	950
451	Steel Maker	247221	950
452	Steel Navigator	248846	950
453	Steel Recorder	251847	950
454	Steel Rover	252500	950
455	Steel Scientist	245730	950
456	Steel Seafarer	248788	950
457	Steel Surveyor	244968	950
458	Steel Traveler	247198	950
459	Steel Vendor	246464	950
460	Steel Voyager	252501	950
461	Steel Worker	247834	950
402	Stella Lykes	247504	950
2248	Stella Lykes	504982	5,515
403	Sue Lykes	248145	450
2431	Susquehanna	248234	450
404	Sylvia Lykes	247841	450
233	Syosset	247458	650
1415	Tampico	246344	2,880
255	Tatalina	247995	175
1430	Texaco Bristol	3481-GE	900

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
463	Texaco California	266910	\$2,080
464	Texaco Colorado	241758	575
465	Texaco Connecticut	266501	1,990
466	Texaco Florida	271820	2,295
1867	Texaco Georgia	293819	6,650
469	Texaco Illinois	246993	2,555
471	Texaco Kansas	244230	2,425
1077	Texaco Kentucky	2439-50	830
1218	Texaco London	1166	900
473	Texaco Louisiana	245053	700
1596	Texaco Maine	4500-59	2,565
1823	Texaco Maryland	292735	6,500
1824	Texaco Massachusetts	290306	6,275
475	Texaco Minnesota	243202	2,970
476	Texaco Mississippi	245382	2,970
2028	Texaco Montana	298918	7,080
478	Texaco Nebraska	242845	2,490
479	Texaco Nevada	245175	2,300
480	Texaco New Jersey	245831	2,270
481	Texaco New York	265981	2,045
483	Texaco North Dakota	265006	2,010
1051	Texaco Ohio	2447-50	830
1873	Texaco Oklahoma	275882	6,540
1083	Texaco Pennsylvania	2438-50	820
1899	Texaco Rhode Island	296380	6,850
1085	Texaco Texas	2448-50	830
1270	Texaco Wisconsin	277805	6,835
489	Texaco Wyoming	243048	2,885
209	Texan	249352	1,520
685	Texas	240541	950
2140	Texas Getty	2443	5,085
174	Texas Sun	283897	10,350
2422	Thailand Bear	257213	950
2147	Thalia	248127	2,620
497	The Cabins	246143	2,265
925	Thetis	279627	8,405
2096	Thomas A.	200064	3,510
2412	Thomas M.	266338	3,220
405	Thompson Lykes	283413	3,335
1357	Thunderbird	247092	400
1622	Thunderhead	246038	450
602	Ticonderoga	242244	1,120
406	Tillie Lykes	248461	950
1797	Timbo	1778	990
1643	Tivives	254488	530
256	Toussain	252527	180
2222	Topa Topa	247905	459
881	Transborinean	246540	230
1722	Transcaribbean	248749	400
2392	TranschAMPLAIN	506148	700
221	Transeastern	279438	9,000
2253	Transhartford	241992	615
1456	Transhatteras	242992	700
2252	Transhudson	248910	700
2254	Transnorthern	245244	424
2337	Transontario	244545	700
1455	Transorleans	243223	700
2403	Transpanama	257381	2,685
1752	Transunion	242956	230
2255	Transwestern	251767	950
2251	Transyork	239271	855
1598	Trinidad	4336-58	2,440
Trinity		246600	4,675
22	Trojan	247177	2,710
590	Tullahoma	246662	2,520
407	Tyson Lykes	248066	450
1644	Ulua	255135	530
2432	U.S. Adventurer	247220	424
2433	U.S. Builder	247121	424
2434	U.S. Caper	247194	424
2435	U.S. Defender	248013	400
2436	U.S. Explorer	248565	424
2437	U.S. Mate	252492	450
2438	U.S. Navigator	248751	400
2439	U.S. Pilot	245016	450
2440	U.S. Tourist	248171	424
2441	U.S. Victory	245754	424
966	Utah Standard	251140	645
2340	Vantage Progress	245623	455
2339	Vantage Venture	242676	650
408	Valma Lykes	247584	450
2354	Valma Lykes	506652	5,740
621	Venetia V	245835	450
2477	Venetia V	248225	1,925
338	Ventura	252633	950
666	Virginia Trader	244789	785
719	Volunteer State	247792	400
1946	Vohsua	245415	250
1398	Washington	288603	4,925
437	Washington Bear	264252	2,800
2097	Washington Getty	2371	5,020
1349	Washington Mall	287238	4,730
974	Washington Standard	240203	700
667	Washington Trader	245566	785
1713	Wellsey Victory	247564	424
1779	Western Clipper	268288	4,010
1780	Western Comet	266365	3,835
1302	Western Hunter	287156	12,750
1781	Western Planet	268078	3,995
175	Western Sun	268798	4,225
1900	Whitehall	256964	450
1537	W. H. Peabody	246065	250
2225	Wild Ranger	249518	450
410	William Lykes	247998	450

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
224	Wilmington Getty	246557	\$700
1609	Windsor Victory	247843	424
1511	Wingless Victory	247243	400
358	Wolverine State	248740	1,500
2226	Yaka	246335	459
1645	Yaquie	251684	530
2998	Yellowstone	248883	1,780
2030	Yorkmar	246261	4,150
2193	Young America	243034	450
411	Zoella Lykes	282126	3,335

(b) Vessels of less than 1,500 gross tons—As of July 1, 1968. (1) The Maritime Administration has determined for certain vessels of less than 1,500 gross tons the values which constitute just compensation for the vessels to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed in Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1968, by inserting in the space provided therefor or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1968, to December 31, 1968, inclusive: *Provided, however*, That the Assured shall have the right within 60 days after date of publication of this section or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a) (2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
752	A. H. Dumont	239224	\$88
1906	Ahi	251250	220
1686	Atlantic	262007	146
1188	Barge 118		7.5
1197	Barge 129		7.5
1198	Barge 133		23
1199	Barge 134		9
1256	Blue Line 107	263055	180
1153	Britton	119	19
1562	Challenger	288882	360
1165	Dammam 7		13
1166	Dammam 8	255059	14
1170	Dammam 12		52
1171	Dammam 13		64
1172	Dammam 14		42
1564	Everglades	279577	357
24	George S.	282206	93
764	George Whitlock II	241390	100
1150	Habib		15
1942	H. J. Sheridan	235802	54
1565	Hollywood		94
1151	Horne	115	16
765	Hygrade No. 2	270766	195
767	Hygrade No. 8	176732	175
768	Hygrade No. 14	250807	175
769	Hygrade No. 18	272741	195
771	Hygrade No. 26	252077	175
772	Hygrade No. 28	253996	175
773	Hygrade No. 30	264104	175
774	Hygrade No. 32	267113	185
1908	Isleways No. 1	251436	40
1909	Isleways No. 2	251519	40
1910	Isleways No. 3	251682	40
1911	Isleways No. 4	251773	40
1912	Isleways No. 5	251859	40
1594	Lewis No. 8	244278	40
1702	Mohawk	254469	105
741	Ocean King	248921	96

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
742	Ocean Prince.....	270461	\$380
1907	Ono.....	252117	220
1502	Perth Amboy No. 1.....	171776	170
1503	Perth Amboy No. 2.....	171686	170
759	Phillip Lemler.....	251390	46
1719	Ponce de Leon.....	244296	69
744	Port Jefferson.....	274512	368
1176	Qatif 7.....		62
1177	Qatif 8.....		62
1148	Sandy.....	114	16
1278	Saratoga.....	254128	80
1263	Spartan.....	273515	420
1152	Swigart.....	118	17
18	Virginia Phillips.....	230971	57
763	W. A. Weber.....	251392	65

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: September 13, 1968.

E. SCOTT DILLON,
Chairman,
Ship Valuation Committee.

[F.R. Doc. 68-11405; Filed, Sept. 20, 1968; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Fruits

NOTICE OF QUARANTINE

On July 12, 1968, there was published in the FEDERAL REGISTER (33 F.R. 10011) a notice of proposed rule making concerning an amendment of § 319.28(h) of the quarantine relating to the importation of Unshu oranges from Japan to destinations in Alaska at any time, subject to the permit and other requirements of the Fruit and Vegetable Quarantine No. 56. After due consideration of all matters presented, and pursuant to sections 5, 7, and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 160, 162), said § 319.28(h) is hereby amended to read as follows:

§ 319.28 Notice of quarantine.

(h) This prohibition shall not apply to importations into Alaska, for consumption there, of oranges of the Unshu class grown in Japan, during the 1968 shipping season and succeeding seasons. Such importations, however, are subject to permit and other requirements under the Fruit and Vegetable Quarantine, § 319.56.

(Secs. 5, 7, 9, 37 Stat. 316, 317, 318; 7 U.S.C. 159, 160, 162; 29 F.R. 16210, as amended; 30 F.R. 5799, as amended)

The Citrus Fruit Quarantine was revised, effective July 3, 1967, to allow importations of Unshu oranges from approved citrus canker-free areas in Japan into Alaska, Idaho, Montana, Oregon, and Washington under specified requirements. Seasonal growing conditions in Japan in 1967 made it impossible

to comply with such requirements, and oranges from nonapproved areas in Japan were admitted into Alaska during the fall of 1967 under an amendment to Quarantine No. 28, effective November 9, 1967.

The forgoing amendment of the quarantine permits the importation of such oranges into Alaska for consumption there under the same requirements as were in force prior to the revision of July 3, 1967. These requirements did not permit Unshu oranges shipped into Alaska to be reshipped to other States. No change is made in the requirements with respect to imports of oranges from Japan entering into or destined for the other States named.

Inasmuch as the shipping season for Unshu oranges from Japan is imminent it is necessary to make this amendment effective at the earliest possible date to be of maximum benefit to importers. Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective upon publication in the FEDERAL REGISTER, when it shall supersede the amendment of November 9, 1967 (§ 319.28(h)).

Done at Washington, D.C., this 17th day of September 1968.

[SEAL] GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 68-11540; Filed, Sept. 20, 1968; 8:50 a.m.]

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 21]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPLICATION Correction

In F.R. Doc. 68-10872 appearing at page 12773 in the issue of Tuesday, September 10, 1968, in the eighth line of paragraph A in the form of § 401.103(e), the reference to "paragraph 8" should read "paragraph B".

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

[Orange Reg. 19, Amdt. 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906),

regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, 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 of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of 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) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of oranges in that it permits the shipment of oranges at a smaller size than currently provided. The amendment changes the minimum size requirement from 2 $\frac{1}{16}$ inches in diameter to 2 $\frac{1}{8}$ inches in diameter.

Order. The provisions of § 906.342(a) (1) (ii) (§ 906.342 Orange Reg. 19; 33 F.R. 14067) are amended to read as follows: § 906.342 Orange Regulation 19.

(a) * * *

(1) * * *

(ii) Early and midseason oranges, grown as aforesaid, which are of a size smaller than 2 $\frac{1}{16}$ inches in diameter, except that not more than 10 percent, by count, of such oranges in any lot of containers, and not more than 15 percent, by count, of such oranges in any individual container in such lot may be of a size smaller than 2 $\frac{1}{16}$ inches in diameter; or

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

Dated: September 17, 1968, to become effective September 18, 1968.

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

[F.R. Doc. 68-11509; Filed, Sept. 20, 1968; 8:47 a.m.]

[Valencia Orange Reg. 256, Amdt. 1]

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

Limitation of Handling

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 recommendations 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 by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests 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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 908.556 (Valencia Orange Reg. 256, 33 F.R. 12885) are hereby amended to read as follows:

§ 908.556 Valencia Orange Regulation 256.

- (b) * * *
- (1) * * *
- (ii) District 2: 500,000 cartons.

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

Dated: September 18, 1968.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Consumer and Mar-
keting Service.

[F.R. Doc. 68-11542; Filed, Sept. 20, 1968; 8:50 a.m.]

[Lemon Reg. 339]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.639 Lemon Regulation 339.

(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 September 17, 1968.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period September 22, 1968, through September 28, 1968, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 112,530 cartons;
 - (iii) District 3: 92,070 cartons.
- (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: September 19, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Veg-
etable Division, Consumer and
Marketing Service.

[F.R. Doc. 68-11555; Filed, Sept. 20, 1968; 8:50 a.m.]

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Expenses and Rate of Assessment and Carryover of Unexpended Funds

On September 5, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 12576) regarding proposed expenses and the related rate of assessment for the fiscal period July 1, 1968, through June 30, 1969, and approval of carryover of unexpended funds from the fiscal period July 1, 1967, through June 30, 1968, pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Northwest Fresh Bartlett Pear Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 931.203 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee during the fiscal period July 1, 1968, through June 30, 1969, will amount to \$13,431.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 931.41, is fixed at \$0.01 per standard western pear box, or equivalent quantity, of pears.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended June 30, 1968, in the amount of \$116, shall be carried over as a reserve in accordance with the applicable provisions of § 931.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of Bartlett pears grown in Oregon and Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable pears

handled during the aforesaid period; and (3) such period began on July 1, 1968, and said rate of assessment will automatically apply to all such pears beginning with such date.

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

Dated: September 17, 1968.

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

[F.R. Doc. 68-11510; Filed, Sept. 20, 1968; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1968 Crop Wheat Supp., Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1968 Crop Wheat Loan and Purchase Program

The regulations issued by the Commodity Credit Corporation published in 33 F.R. 8329 and 9464 containing regulations for price support loans and purchases applicable to the 1968 crop of wheat are amended as follows:

In § 1421.2119, subdivision (ii) of subparagraph (2) of paragraph (c) is amended to provide that the total discount for wheat grading sample on the factor of test weight and/or total defects shall not exceed 30 cents per bushel if total defects do not exceed 50 percent or 45 cents per bushel if total defects exceed 50 percent. The amended subdivision reads as follows:

§ 1421.2119 Support rates, premiums, and discounts.

- (c) Premiums and discounts. * * *
- (2) Grade premiums and discounts. * * *
- (ii) Discounts:
- | | |
|------------|----|
| No. 2..... | -1 |
| No. 3..... | -3 |
| No. 4..... | -6 |
| No. 5..... | -9 |

Sample on one or more of the factors test weight, total damage (with not more than 3 percent heat damage), foreign material, and total defects (with not more than 3 percent heat damage), apply a discount of 14 cents. Add 1 cent for each pound or fraction thereof that test weight is below 50 pounds (49 pounds for Hard Red Spring) through 40 pounds and add 1 cent for each percent or fraction thereof that total defects are in excess of 21 percent. Total discount on these factors shall not exceed 30 cents per bushel if total defects are not in excess of 50 percent, or 45 cents per bushel if total defects are in excess of 50 percent.

Smut—degree basis:

Light Smutty.....	-2
Smutty.....	-6

Garlic—degree basis:

Light Garlicy.....	-5
Garlicky.....	-10

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 107, 401, 63 Stat. 1051, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 17, 1968.

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

[F.R. Doc. 68-11541; Filed, Sept. 20, 1968; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 83—DUCK VIRUS ENTERITIS (DUCK PLAGUE)

Areas Quarantined

Pursuant to the provisions of sections 1 and 3 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and section 3 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 125, and 134b), § 83.2 of Part 83, Title 9, Code of Federal Regulations, designated "Duck Virus Enteritis (Duck Plague)" is hereby amended to read as follows:

§ 83.2 Notice relating to existence of the contagion of duck virus enteritis and notice of quarantine.

(a) Notice is hereby given that the contagion of duck virus enteritis exists in Suffolk County in the State of New York and that live poultry in that county are affected with said disease. Therefore, Suffolk County is hereby quarantined.

(b) Further notice is also hereby given that the contagion of duck virus enteritis exists on the premises of the Patuxent Wildlife Research Center, U.S. Department of the Interior, located at Laurel, Md., in Prince George's and Anne Arundel Counties of the State of Maryland, and that live poultry on such premises are affected with said disease. Therefore, the premises of the Patuxent Wildlife Research Center, Laurel, Md., are hereby quarantined.

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

The purpose of this amendment is to add the premises of the Patuxent Wildlife Research Center, Laurel, Md., to the list of areas quarantined because of the contagion of duck virus enteritis (duck plague); to facilitate the confinement of said disease to areas where the contagion is known to exist; and to prevent the spread of duck virus enteritis from affected flocks in the quarantined area.

The amendment imposes certain restrictions necessary to prevent the spread

of duck virus enteritis, a communicable disease of waterfowl, and must be made effective immediately in order to accomplish its desired purpose. Accordingly, under the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of September 1968.

GEORGE W. IRVING, JR.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 68-11539; Filed, Sept. 20, 1968; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 68-SO-23]

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

Alteration of Transition Area

On May 10, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 7043), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Union City, Tenn., transition area.

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

Subsequent to publication of the notice, it was determined that the proviso "excluding the portion that coincides with the Dyersburg, Tenn., transition area" had been omitted from the description. Because of this determination, it is necessary to alter the description accordingly.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 14, 1968, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Union City, Tenn., transition area (33 F.R. 4095) is amended to read:

UNION CITY, TENN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Everett-Stewart Airport (lat. 36°22'50" N., long. 88°59'15" W.); within 2 miles each side of the Dyersburg VORTAC 037° radial, extending from the 5-mile radius area to 25 miles northeast of the VORTAC; within 2 miles each side of the 347° and 186° bearings from the Union City RBN (lat. 36°23'06" N.,

long. 88°58'50" W.), extending from the 5-mile radius area to 8 miles north and 8 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within 8 miles west and 5 miles east of the 347° and 186° bearings from the Union City RBN, extending from 12 miles north to 12 miles south of the RBN, excluding the portion that coincides with the Dyersburg, Tenn., transition area.

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

Issued in East Point, Ga., on September 12, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[P.R. Doc. 68-11501; Filed, Sept. 20, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SO-52]

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

Alteration of Control Zone and Transition Area

On July 25, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 10579), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Tuscaloosa, Ala., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable except those submitted by the Aircraft Owners and Pilots Association (AOPA).

The AOPA objected on the basis that the proposed control zone extension predicated on the Tuscaloosa VORTAC 061° radial is not justified northeast of the VORTAC, that the extension should terminate at the VORTAC.

A review of the proposal, in the light of comments received, disclosed that the control zone extension to 8 miles northeast of the VORTAC is required to provide adequate controlled airspace protection for aircraft in descent below 1,000 feet above the surface, based on terrain within the approach course which extends to an elevation of 580 feet AMSL. The AOPA, upon receipt of this information, withdrew the objection.

Subsequent to publication of the notice, a refined plotting by Coast and Geodetic Survey placed the VORTAC approximately one-half mile outside the basic 5-mile radius zone. Because of this refinement, it is necessary to alter the control zone to encompass the airspace within 2 miles each side of the Tuscaloosa VORTAC 241° radial, extending from the VORTAC to the 5-mile radius zone. One square mile of uncontrolled airspace is added to the control zone by this alteration.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 14, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the Tuscaloosa, Ala., control zone is amended to read:

TUSCALOOSA, ALA.

Within a 5-mile radius of Van De Graaff Airport (lat. 33°13'35" N., long. 87°36'36" W.); within 2 miles each side of the Tuscaloosa VORTAC 061° and 241° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC.

In § 71.181 (33 F.R. 2137), the Tuscaloosa, Ala., transition area is amended to read:

TUSCALOOSA, ALA.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Van De Graaff Airport (lat. 33°13'35" N., long. 87°36'36" W.).

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

Issued in East Point, Ga., on September 11, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[P.R. Doc. 68-11499; Filed, Sept. 20, 1968; 8:46 a.m.]

[Airspace Docket No. 68-SO-53]

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

Alteration of Transition Area

On July 30, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 10806), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Wilmington, N.C., 700-foot transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 14, 1968, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Wilmington, N.C., 700-foot transition area is amended to read:

WILMINGTON, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of New Hanover County Airport (lat. 34°16'11" N., long. 77°54'14" W.); within 2 miles each side of the ILS localizer Southeast course, extending from the 8-mile radius area to 8 miles Southeast of the LOM; within 2 miles each side of the Wilmington VORTAC 017° radial, extending from the 8-mile radius area to 8 miles northeast of the VORTAC.

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

Issued in East Point, Ga., on September 11, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[P.R. Doc. 68-11500; Filed, Sept. 20, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SO-56]

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

Designation of Control Zone and Alteration of Transition Area

On August 2, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 11030), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate the Greenwood, S.C., part-time control zone and alter the Greenwood, S.C., 700-foot transition area.

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

Subsequent to the publication of the notice, the geographic longitudinal ordinate for Greenwood County Airport was refined by Coast and Geodetic Survey to "Long. 82°09'35" W." Because of this refinement, the transition area extension predicated on the Greenwood VORTAC 259° radial is no longer required.

Since these amendments are either minor or less restrictive in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the descriptions accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 14, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the following part-time control zone is added:

GREENWOOD, S.C.

Within a 5-mile radius of Greenwood County Airport (lat. 34°15'00" N., long. 82°09'35" W.); within 2 miles each side of the Greenwood VORTAC 099° and 259° radials, extending from the 5-mile radius zone to 8 miles East and West of the VORTAC, effective 0615 to 2245 local time, Monday through Friday, 0615 to 1830 local time, Saturday, and 1045 to 2230 local time, Sunday.

In § 71.181 (33 F.R. 2137), the Greenwood, S.C., 700-foot transition area is amended to read:

GREENWOOD, S.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Greenwood County Airport (lat. 34°15'00" N., long. 82°09'35" W.); within 2 miles each side of the Greenwood VORTAC 099° radial, extending from the 8-mile radius area to 8 miles east of the VORTAC.

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

Issued in East Point, Ga., on September 11, 1968.

JAMES G. ROGERS,
Director, Southern Region.

[P.R. Doc. 68-11502; Filed, Sept. 20, 1968; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8646 o.]

PART 13—PROHIBITED TRADE PRACTICES

S.S.S. Co. and Tucker Wayne & Co.; Correction

In F.R. Doc. 68-10267, appearing at pages 12037 and 12038 of the issue for Saturday, August 24, 1968, paragraph 1(b), the last paragraph of the third column is corrected to read as follows:

(b) The use of such preparations will be of benefit in the prevention, relief, or treatment of iron or vitamin deficiency or iron deficiency anemia in any specific or described group of people: *Provided, however, That it shall be a defense in any enforcement proceeding instituted under this prohibition for respondents affirmatively to show:*

Issued: August 8, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-11513; Filed, Sept. 20, 1968;
8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-8404]¹

PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Supervisory Responsibilities of Broker-Dealer Management

The recent high volume of securities transactions has seriously affected most most broker-dealers and has again focused considerable attention on the responsibility of the broker-dealer managements to establish and carry out an effective supervisory system so as to promote a more efficient operation and safeguard against possible violations of the various rules and regulations of the regulatory agencies. Improper sales practices and techniques and deficiencies in

¹ Issued as joint release with Maryland Division of Securities, National Association of Securities Dealers, Inc. (Districts 10 and 11), Pennsylvania Securities Commission, Philadelphia-Baltimore-Washington Stock Exchange, Public Service Commission of the District of Columbia and Virginia Division of Securities.

back office procedures reflect inadequate supervision. These problems are serious today. Recently, representatives of various regulatory agencies meeting in Philadelphia discussed these problems in detail. It was concluded that, notwithstanding the various suggested supervisory procedures which have been previously published by the New York Stock Exchange, National Association of Securities Dealers, Inc., and other self-regulatory agencies, many broker-dealer managements have not adequately used these or any other supervisory procedures aimed at current selling and back office problems in any meaningful manner.

Clearly, the primary responsibility of assuring that the firm's operation complies with sound business practices and the rules and regulations of all regulatory bodies rests with the firm's management. All steps necessary to achieve compliance in view of the specific firm's pattern of business should be instituted as soon as possible. Each securities firm should assure that all supervisory functions are being carried out appropriately, including those listed below, which have been and are still of vital concern:

(1) The review of the firm's methods of obtaining customers' accounts, including provisions for assuring that adequate information is obtained as to the customers' objectives, needs and finances.

(2) The review of customer accounts, including a review for churning and switching of securities in customers' accounts as well as unsuitable recommendations and sales of unregistered securities.

(3) The review of methods of recruiting and training of employees, including provisions for assuring that salesmen will not be hired unless the firm can adequately service the business created and maintain an appropriate ratio between sales personnel and back office personnel. Attention should also be given to the adequate training and compensation of back office personnel.

(4) The review of back office operations, i.e., all systems and procedures, including the currency and accuracy of books and records, the status and causes of "fails to receive" and "fails to deliver," net capital, credit extensions and financial reports. Attention also should be given to operations that can or should be automated. Prompt delivery of securities to customers and prompt disbursement of customers' funds should be emphasized, and as the Securities and Exchange Commission stated in a recent announcement (SEC News Digest dated July 29, 1968, (Securities Exchange Release No. 34-8363, published in the FEDERAL REGISTER of August 7, 1968 (33 F.R. 11150)) failure to do so can result in violations of the antifraud provisions of the federal securities laws.

(5) The review of sales techniques and methods of salesmen. Specifically, procedures should be used for the review of salesmen's telephone recommendations to customers, sales correspondence with customers, new issue sales, suitability

of recommendations and discretionary accounts.

For a supervisory system to function most effectively, the review process should be virtually a continuous one and any corrective action necessary to rectify a discovered wrong should always be taken forthwith. Further, many firms with effective supervisory procedures have placed the supervisory function on one member of management, while realizing that all members of management are fully responsible.

Conclusion. It is hoped that this release will serve to motivate the broker-dealer community to consider more fully its various operational problems and the broker-dealer's responsibility for adequate supervision of such operations. A failure to recognize the nature and extent of this duty to supervise and to establish and implement meaningful supervisory procedures has resulted and will continue to result in disciplinary action against the firm and responsible individuals.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

SEPTEMBER 11, 1968.

[F.R. Doc. 68-11523; Filed, Sept. 20, 1968;
8:48 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order 47 (AGE-4, Amdt. 13)]

AGE-4—COMPENSATION PAYABLE TO AGENTS, GENERAL AGENTS AND BERTH AGENTS

Compensation of General Agents for Husbanding and Certain Other Services

Section 2 of AGE-4 is amended by adding a new paragraph at the end thereof, reading as follows:

Sec. 2. Compensation of General Agents for husbanding services, etc.

(h) Compensation payable for services rendered while a ship is in Reduced Operational Status (R.O.S.) at a Reserve Fleet Site shall be:

(1) When a ship in R.O.S. does not return to operational status, but is placed in lay-up, the compensation shall be as provided in section 7 of this Part for liquidating the activities and business of the vessel.

(2) When a ship in R.O.S. returns to operational status, the compensation during the R.O.S. period shall not be as provided in subparagraph (1) of this paragraph but shall be \$25 per day for each day the ship is in R.O.S., provided the total amount shall not exceed \$1350.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Approved: September 16, 1968.

J. W. GULICK,
Acting Director,
National Shipping Authority.

[F.R. Doc. 68-11536; Filed, Sept. 20, 1968;
8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PROCUREMENT OF CONSTRUCTION

This amendment of the Federal Procurement Regulations adds a new Part 1-18, Procurement of Construction, and makes related changes elsewhere in the chapter. This new part, when fully developed, will facilitate use of the regulations by persons concerned with construction contracting by consolidating regulatory material related solely to construction.

PART 1-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1-2.2—Solicitation of Bids

Section 1-2.201 is amended to add a sentence at the end of paragraph (a) and to delete item (19) from the enumeration which follows. As amended, the section reads:

§ 1-2.201 Preparation of invitations for bids.

(a) For supply and service contracts, including construction, invitation for bids shall contain the following information if applicable to the procurement involved. Additional items peculiar to construction contracts are enumerated in § 1-18.203-1(b).

(19) [Reserved]

PART 1-6—FOREIGN PURCHASES

The table of contents for Subpart 1-6.2 is revised as follows:

1-6.201 Cross-reference.

Subpart 1-6.2—Buy American Act— Construction Contracts

Subpart 1-6.2 is revised to delete the text of the subpart in its entirety and to prescribe a revised § 1-6.201 as follows:

§ 1-6.201 Cross-reference.

See subpart 1-18.6 for implementation of the Buy American Act with respect to construction contracts.

PART 1-8—TERMINATION OF CONTRACTS

Subpart 1-8.6—Termination for Default

Section 1-8.603 is revised as follows:

§ 1-8.603 Default termination of fixed-price construction contracts.

See § 1-18.803.

Subpart 1-8.7—Clauses

Section 1-8.700-2 is amended to change the provisions of paragraphs (a) (3), (a) (6), and (b), as follows:

§ 1-8.700-2 Applicability.

(a) * * *

(3) The clause set forth in § 1-8.702 shall be used in any cost-reimbursement type contract for (i) supplies, or (ii) experimental, developmental, or research work where a fee is contemplated, whenever the procuring activity considers it necessary or desirable to provide for termination of the contract for the convenience of the Government. The clause shall be used in all cost-reimbursement type construction contracts in excess of \$10,000, and, when so used, the text of paragraph (e) (1) (iv) (B) shall be deleted and the following shall be substituted therefor:

(B) In the event of the termination of this contract for default, the total fee payable shall be such proportionate part of the fee as the acceptable work in place bears to the total work in place required by the contract.

(6) The short-form termination clause set forth in § 1-8.705-2 is authorized for use in any fixed-price construction contract which is not in excess of \$100,000 in lieu of any other clause providing for termination for the convenience of the Government. The clause also is authorized for use in contracts in excess of \$100,000 when modified in the following manner: Designate the text of the clause prescribed in § 1-8.705-2 as paragraph (a) and add a paragraph (b) as follows:

(b) If this contract exceeds \$100,000, the clause in § 1-8.703 of the Federal Procurement Regulations (41 CFR 1-8.703) in effect on the date of this contract shall apply in lieu of the provisions set forth in (a), above, such clause being hereby incorporated by reference as fully as if set forth at length herein.

(b) * * *

(2) In any cost-reimbursement type contract for (i) supplies, or (ii) experimental, developmental, or research work where a fee is contemplated, the clause set forth in § 1-8.702 shall be used whenever an agency considers it desirable to provide a termination for default clause in such a contract. The clause shall be used in all cost-reimbursement type construction contracts, as provided in paragraph (a) (3) of this section.

PART 1-10—BONDS AND INSURANCE

Subpart 1-10.1—Bonds

1. Section 1-10.102-7 is revised to read as follows:

§ 1-10.102-7 Construction contract.

"Construction contract" means any contract for construction, alteration, or repair as provided in §§ 1-12.402-1 and 1-18.101-1.

2. Section 1-10.104-2 is amended to add a new paragraph (b) (4), as follows:

§ 1-10.104-2 Other than construction contracts.

(b) * * *

(4) Where, in connection with a contract for dismantling, demolition, or removal of improvements, regardless of amount, a performance bond is determined necessary to ensure completion of the work and to protect the Government against damage to adjoining property during its performance.

PART 1-12—LABOR

Subpart 1-12.4—Labor Standards in Construction Contracts

Section 1-12.402-1 is amended to add a new paragraph (a) (5), as follows:

§ 1-12.402-1 Construction contracts.

(a) * * *

(5) These requirements do not apply to contracts solely for dismantling, demolition, or removal of improvements.

PART 1-16—PROCUREMENT FORMS

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401(h) is revised to require a change in Standard Form 23-A 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," Clause 19, "Buy American," and Clause 21, "Equal Opportunity," and by substituting in lieu thereof the clauses prescribed in §§ 1-7.601-2, 1-7.601-3, 1-18.605, and 1-12.803-2, respectively, and shall add the "Suspension of Work" clause prescribed in § 1-7.601-4 of this Chapter.

The table of parts is amended by adding new Part 1-18, as follows:

1-18 Procurement of construction.

New Part 1-18 is added to read as follows:

PART 1-18—PROCUREMENT OF CONSTRUCTION

Sec.	
1-18.000	Scope of part.
Subpart 1-18.1—General Provisions	
1-18.101	Definitions.
1-18.101-1	Construction.
1-18.102	Methods of procurement.
1-18.102-1	General.
1-18.103	Sources of construction services.
1-18.104	Subcontracting.
1-18.105	Time of performance.
1-18.106	Minimum standards for responsible prospective contractors.
1-18.107	Specifications.
1-18.108	Government estimates.
1-18.109	Disclosure of size of construction projects.
1-18.110	Liquidated damages.
1-18.111	Concurrent firm fixed-price and cost-type construction contracts.
1-18.112	Construction contracts with design architect-engineers.
Subpart 1-18.2—Formal Advertising	
1-18.200	Scope of subpart.
1-18.201	Types of contracts.
1-18.202	Preinvitation notices.
1-18.203	Invitations for bids.
1-18.203-1	Preparation of invitations for bids.
1-18.203-2	Distribution of invitations for bids.
1-18.203-3	Amendment of invitations for bids.
1-18.204	Inspection of site and of data affecting the work.
1-18.205	Prebid conferences.
1-18.206	Opening of bids.
1-18.207	Cancellation of invitations for bids.
1-18.208	Award.
Subpart 1-18.3—Negotiations	
1-18.301	Limitation on authority to negotiate contracts.
1-18.301-1	Work in the continental United States.
1-18.301-2	Work outside the continental United States.
1-18.302	Contracts estimated not to exceed \$2,500.
1-18.303	Price negotiation policies and procedures.
1-18.304	Subcontracting with small business concerns.
1-18.305	Subcontracting policies and procedures.
1-18.306	Preparation for negotiation.
1-18.306-1	Fixed-price type contracts.
1-18.306-2	Cost-reimbursement type contracts.
1-18.306-3	Selection of a cost-reimbursement type contractor.
1-18.307	Negotiations.
1-18.307-1	Fixed-price construction contracts.
1-18.307-2	Cost-reimbursement type contracts.
1-18.308	Audit as a pricing aid.
1-18.309	Record of negotiations.
Subpart 1-18.4—[Reserved]	
Subpart 1-18.5—[Reserved]	
Subpart 1-18.6—Buy American Act	
1-18.600	Scope.
1-18.601	Definitions.
1-18.602	Buy American policy.
1-18.602-1	General.
1-18.602-2	Determining domestic construction material.
1-18.602-3	Panamanian material used in Canal Zone.
1-18.602-4	Noting exceptions and findings.

Sec.	
1-18.603	Unreasonable cost determination.
1-18.603-1	General.
1-18.603-2	Cost computation.
1-18.603-3	Deviations by agency head.
1-18.603-4	Small business.
1-18.604	Invitation provision.
1-18.605	Contract clause.
1-18.606	Violations.

Subpart 1-18.7—[Reserved]

Subpart 1-18.8—Termination of Construction Contracts

1-18.800	Scope.
1-18.801	Definitions.
1-18.802	Termination for convenience of the Government.
1-18.802-1	Use of clauses.
1-18.802-2	Submission of settlement proposals.
1-18.802-3	Bases for settlement proposals.
1-18.802-4	Completed items.
1-18.802-5	Allowance for profit.
1-18.802-6	Contractor inventory.
1-18.802-7	Separate schedules.
1-18.802-8	Return of materials to stock.
1-18.802-9	Allocability of contractor-acquired property on inventory schedules.
1-18.802-10	Contractor's certificate—property incorporated in work.
1-18.802-11	Inventory at construction site.
1-18.802-12	Screening of property.
1-18.802-13	Contracts for other departments or agencies.
1-18.802-14	Transfer of property.
1-18.802-15	Cleanup of site.
1-18.802-16	Final payment.
1-18.802-17	Adjustment of fee.
1-18.803	Default termination of fixed-price construction contracts.
1-18.803-1	Termination of the contractor's right to proceed.
1-18.803-2	Procedure in lieu of termination for default.
1-18.803-3	Effect of termination for default.
1-18.803-4	Preliminary notice.
1-18.803-5	Procedure in case of default.
1-18.803-6	Dealings with surety—takeover agreements.
1-18.803-7	Completion by another contractor.
1-18.803-8	Documentation in contract file.
1-18.803-9	Liquidation of liability.
1-18.803-10	Withholding for labor violations.
1-18.804	Use of termination for default clauses.
1-18.805	Formats of notices of termination for convenience of construction contracts.
1-18.805-1	Telegraphic notices.
1-18.805-2	Letter notices.

Subpart 1-18.9—[Reserved]

Subpart 1-18.10—Bonds and Insurance

1-18.1000	Scope.
1-18.1001	Bid guarantees.
1-18.1002	Performance bonds in connection with construction contracts.
1-18.1003	Payment bonds in connection with construction contracts.
1-18.1004	Furnishing information to subcontractors and suppliers.
1-18.1005	Default procedures.
1-18.1006	Consent of surety.
1-18.1007	Insurance.

Subpart 1-18.11—Federal, State, and Local Taxes

1-18.1101	Cross-reference.
-----------	------------------

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

Part 1-18—Procurement of Construction

§ 1-18.000 Scope of part.

This part sets forth contracting procedures peculiar to construction contracts. Other provisions of the Federal Procurement Regulations are also applicable to construction contracts and shall be adhered to where applicable. All contracts mentioned in this part shall be deemed to mean construction contracts unless specifically described otherwise. Where a contract covers the procurement of both construction and supplies or services, the contract shall include provisions applicable to the predominant part of the work, or shall be divided into parts, and include the provisions appropriate for each part, but see § 1-12.402-2. Where a provision in this part is inconsistent with a provision elsewhere in the Federal Procurement Regulations, the provision of this part shall apply to construction.

Subpart 1-18.1—General Provisions

§ 1-18.101 Definitions.

See also Subpart 1-1.2.

§ 1-18.101-1 Construction.

"Construction" as used in this part means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include but are not limited to buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include exploratory drilling and other investigative work which is for the purpose of obtaining preliminary data to be used in engineering studies and which is not a part of commencing or continuing the construction process, nor does it include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

§ 1-18.102 Methods of procurement.

§ 1-18.102-1 General.

Construction shall be procured by means of formal advertising whenever such method is feasible and practicable under the existing circumstances. Permissible exceptions include small business set-asides, overseas construction, and construction of a classified or experimental nature, as provided in Part 1-3 (see also §§ 1-18.200 and 1-18.301-2).

§ 1-18.103 Sources of construction services.

Generally, construction in the United States shall be performed by contract between the Government and such person or firm as shall be selected in accordance with the procedures of the procuring agency. However, construction may

be performed by agency personnel where the circumstances dictate.

§ 1-18.104 Subcontracting.

Specialty items, such as plumbing, heating, and electrical work, are usually subcontracted. Therefore, unless the contractor is required to perform a significant part of the contract work with his own forces, there may be difficulty in obtaining adequate supervision by him. To avoid this difficulty, a construction contract may contain the following clause with the insertions of the maximum percentage consistent with customary or necessary specialty subcontracting, and the complexity and magnitude of the work:

PERFORMANCE OF WORK BY CONTRACTOR

The Contractor shall perform on the site, and with his own organization, work equivalent to at least (words) percent¹ (figures) of the total amount of work to be performed under the contract. If, during the progress of the work hereunder, the Contractor requests a reduction in such percentage, and the Contracting Officer determines that it would be to the advantage of the Government, the percentage of the work required to be performed by the Contractor may be reduced with the written approval of the Contracting Officer.

§ 1-18.105 Time of performance.

(a) In establishing the time for completion of a contract, the contracting officer should give consideration, among other things, to:

- (1) The nature and complexity of the project;
- (2) The construction seasons involved;
- (3) The requirements of the Government; and
- (4) The availability of materials and equipment.

(b) In any given contract, separate completion periods may be established for separable items of work. Where such periods are shown, requests for extension of time must be evaluated with respect to each item, and the affected completion periods modified where appropriate.

§ 1-18.106 Minimum standards for responsible prospective contractors.

In evaluating the financial resources and ability to perform of a prospective contractor, the contracting officer, in addition to other pertinent factors (see § 1-1.310), shall consider whether a bid guarantee has been and performance and payment bonds are to be furnished. However, the mere ability to furnish bonds shall not, in itself, be considered acceptable evidence of adequate financial resources and ability to perform. Where the prospective contractor is a joint venture, the contracting officer shall consider the financial resources and individual capacities of all its members in determining the responsibility of the joint venture.

§ 1-18.107 Specifications.

(a) The technical provisions of construction specifications shall be in sufficient detail so that, when used with the

¹ The required percentage should ordinarily not be less than 12 percent.

applicable drawings, bids can be prepared by contractors, material suppliers, and manufacturers on a fair and competitive basis, and construction can be completed without additional construction specifications, except those necessary to deal with unforeseen conditions or to accomplish changes during construction. Materials and equipment shall be described, where possible, by reference to documents generally known to the industry. The use of specifications and standards shall be governed by §§ 1-1.305 and 1-1.306.

(b) When it is necessary to use "brand name or equal" descriptions in the specifications for descriptive purposes, the particular physical, functional, or other characteristics of the brand name item which are deemed essential to the needs of the procuring agency shall be clearly identified and described.

§ 1-18.108 Government estimates.

An independent Government estimate of construction cost in as much detail as in the case of a prospective contractor's bid shall be prepared for each proposed contract and, at the earliest practicable time, for each modification of an existing contract affecting price, anticipated to cost (in either instance) \$10,000 or more. Where the anticipated cost is less than \$10,000, the contracting officer, at his discretion, may require the preparation of an estimate. Except as may be permitted by agency regulations, access to, or disclosure of, information concerning the Government estimate shall be limited to Government personnel whose official duties require knowledge of the estimate.

§ 1-18.109 Disclosure of size of construction projects.

Where the estimated value of the work is \$25,000 or more, advance notices or invitations for bids and requests for proposals shall include a statement of the magnitude in terms of physical characteristics of the proposed construction and by reference to the estimated price range (e.g. \$500,000-\$1,000,000). In no event shall such statement disclose the Government estimate.

§ 1-18.110 Liquidated damages.

(a) A liquidated damages clause may, in the discretion of the contracting officer, be included in construction contracts. See § 1-1.315. Where such a provision is used, the invitation for bids or request for proposals shall include a clause reading substantially as follows:

LIQUIDATED DAMAGES

In case of failure on the part of the Contractor to complete the work within the time fixed in the contract or any extensions thereof, the Contractor shall pay to the Government as fixed, agreed and liquidated damages, pursuant to the clause of this contract entitled "Termination for Default-Damages for Delay-Time Extensions", the sum of \$----- for each calendar day of delay.

(b) Where different completion periods for separate parts or stages of the work are specified in the contract, this clause should be revised appropriately to

provide for liquidated damages for delay in completion of each separate part or stage of the work as to which delay in completion will result in damage to the Government.

(c) The minimum amount of liquidated damages should be based on the estimated cost of inspection and superintendence for each day of delay in completion. Whenever the Government will suffer other specific losses due to the failure of the contractor to complete the work on time, such as the cost of substitute facilities, the rental of buildings, or the continued payment of quarters allowances, an amount for such items should also be included.

(d) Contracting officers shall take all reasonable steps to mitigate liquidated damages. With respect to remissions of such damages, see § 1-1.315-2(e).

§ 1-18.111 Concurrent firm fixed-price and cost-type construction contracts.

In view of potential labor and administrative problems, cost-plus-a-fixed-fee, price-incentive, or other types of contracts with cost variation or cost adjustment features will not be permitted concurrently, with the same contractor and at the same work site, with firm fixed-price, lump sum, or unit price contracts except with the prior approval of the head of the procuring agency, or his authorized designee.

§ 1-18.112 Construction contracts with design architect-engineers.

No contract for construction of a project shall be awarded to a firm or person that designed the project, except with the approval of the head of the procuring agency, or his authorized designee.

Subpart 1-18.2—Formal Advertising

§ 1-18.200 Scope of subpart.

This subpart sets forth policies and procedures regarding the procurement of construction by formal advertising which is the method of procurement that shall be used whenever feasible and practicable under the circumstances. Small business restricted advertising (see Subpart 1-1.7), while generally subject to the requirements of this subpart, must also meet certain requirements applicable to negotiated contracts (e.g., the Examination of Records clause must be included).

§ 1-18.201 Types of contracts.

Generally, contracts for construction will be of a firm fixed-price type. Such fixed-price contracts may be (a) lump sum contracts for the total work or for defined parts of the work, (b) unit price contracts in which a unit price is paid for a specified quantity of units of work completed such as cubic yards of earth or concrete or square yards of pavement, or (c) a combination of both. Fixed-price contracts with escalation may be used where escalation clauses are customary in contracts for particular items if the omission of such clauses would preclude a significant number of firms from bidding, or would likely result in the inclusion of unwarranted contingencies,

which would unreasonably increase the cost to the Government (see § 1-3.404-3).

§ 1-18.202 Preinvitation notices.

Where preinvitation notices are used, they should be sent to all prospective bidders sufficiently in advance of the issuance of the invitation for bids to stimulate interest on the part of the greatest number of contractors and should be furnished to organizations which maintain plan display rooms as outlined for invitations for bids in § 1-18.203-2. These notices should contain items such as:

- (a) Description of the proposed work in sufficient detail to disclose its nature and magnitude in terms of physical characteristics and estimated price range;
- (b) Location of the work;
- (c) Tentative dates of issuance of invitations, opening of bids, and estimated time of completion;
- (d) Where plans will be available for inspection without charge;
- (e) A date by which request for an invitation for bids should be submitted; and
- (f) A notice that, if no invitation is desired, contractors should inform the issuing office whether future preinvitation notices are desired.

§ 1-18.203 Invitations for bids.

§ 1-18.203-1 Preparation of invitations for bids.

(a) Invitations for bids shall be prepared on forms prescribed in Subpart 1-16.4 and in accordance with this section.

(b) In addition to complying with the requirements of § 1-2.201(a), invitations for bids shall contain the following to the extent applicable:

(1) The applicable wage determination of the Secretary of Labor. If it is necessary to advertise before receipt of a wage determination, a notice that the schedule of minimum wage rates to be paid under the contract will be issued as an amendment to the specifications in advance of the bid opening date;

(2) The clause concerning the amount of work the contractor must perform on the site with his own forces (see § 1-18.104);

(3) The magnitude of the proposed construction as required by § 1-18.109;

(4) Time for performance;

(5) Arrangements to be made for inspecting the site and data which may affect performance of the work (see § 1-18.204);

(6) Information concerning the furnishing, during construction, of items such as utilities, office space, and warehouse space;

(7) Information concerning prebid conference;

(8) Any special qualifications or experience requirements that will be considered in determining the responsibility of bidders;

(9) Any special instructions concerning alternates (see paragraph 5(b) of Instructions to Bidders, Standard Form 22);

(10) Instructions to the contractor concerning reporting requirements; and
(11) Any necessary instruction concerning the conduct of construction activities, covering items such as:

(i) Base lines and grades to use in construction;

(ii) Storage areas;

(iii) Access to construction site;

(iv) Construction of temporary buildings;

(v) Protection of materials and work;

(vi) Damage to existing structures, work or utilities;

(vii) Preservation of existing vegetation;

(viii) Possession of or use by the Government of any completed or partially completed part of the work;

(ix) Cleanup of the site during and after completion of construction;

(x) The handling of shop drawings; and

(xi) Safety requirements and special precautions for hazardous, toxic, and radioactive materials and processes.

(c) All invitations for bids shall allow sufficient bidding time (i.e., the period of time between the date of distribution of an invitation for bids and the date set for opening of bids) to allow bidders an adequate opportunity to prepare and submit their bids, giving due regard for the construction season, the time necessary for bidders to inspect the site, obtain subcontract bids, examine data concerning the work, and prepare estimates from plans and specifications (see § 1-2.202-1).

§ 1-18.203-2 Distribution of invitations for bids.

In addition to compliance with § 1-2.203, invitations for bids (with plans and specifications) for construction work may be furnished without charge to organizations which maintain plan display rooms for the benefit of contractors, subcontractors, and material suppliers, without charge to the public. Requests from organizations in the United States may be honored on an annual or semiannual basis for all or for a stated class of construction projects. The geographical extent of this distribution shall be determined on a case-by-case basis by the contracting officer.

§ 1-18.203-3 Amendment of invitations for bids.

See §§ 1-2.207 and 1-12.404-2.

§ 1-18.204 Inspection of site and of data affecting the work.

Pursuant to Instruction 2 of Standard Form 22, Instructions to Bidders, provision should be made for bidders to inspect the construction site. Also, the opportunity should be provided for bidders to examine data available to the Government which may provide information affecting performance of the work, such as boring samples, original boring logs, and records and plans of previous construction. Such data should be assembled in one place and made available to all bidders in the same manner. Where feasible, a record should be kept of the identity and affiliation of

all bidders' representatives who inspect the site or examine the data.

§ 1-18.205 Prebid conferences.

Where the contracting officer considers that a prebid conference should be held, the invitation for bids shall specify the date, time, and place at which such conference will take place. Ordinarily, this should be about midway during the bidding period. At the conference, the contracting officer or his representative shall explain the nature of the work and problems that can be expected. The design architect-engineer should be available during the conference to assist in interpreting the plans and specifications. It should be made clear to all who attend that pursuant to Instruction 1 of Standard Form 22, Instructions to Bidders, only those modifications to the invitation for bids that are covered by amendment will be considered official. A complete record shall be made of the conference.

§ 1-18.206 Opening of bids.

See § 1-2.402. At the bid opening, the relative merits of any bids shall not be discussed by Government representatives with the bidders, their representatives, or with casual observers. No statements shall be issued by Government representatives at a bid opening bearing on the prospective award, the possibility of readvertisement, mistakes in bids, etc. No oral instructions shall be given to bidders at any time during the opening. Protests of bidders and inquiries regarding the award of contract made at the bid opening shall be referred to the contracting officer after completion of the bid opening procedure for such consideration as may be appropriate under existing procedures.

§ 1-18.207 Cancellation of invitations for bids.

(a) Before opening—see § 1-2.208.

(b) After opening—see § 1-2.404-1.

§ 1-18.208 Award.

See § 1-2.407. A notice of award shall be furnished to the successful bidder as soon as possible and not later than the time set for acceptance in the invitation for bids or any extension to which the bidder has agreed. The notice of award shall:

(a) Identify the invitation;

(b) Identify the contractor's bid;

(c) Set forth the award price;

(d) Advise contractor of date by which formal contract and/or performance and payment bonds must be executed and returned; and

(e) Include directions regarding commencement of work (i.e., upon receipt of award, or upon receipt of notice to proceed which will be issued upon receipt of acceptable performance and payment bonds, as appropriate).

Subpart 1-18.3—Negotiations

§ 1-18.301 Limitation on authority to negotiate contracts.

Construction contracts shall be made by formal advertising whenever such method is feasible and practicable under

existing conditions and circumstances, even though such conditions and circumstances would otherwise satisfy the requirements for negotiation in this subpart and Part 1-3. However, this provision shall not be construed to limit the use of small business restricted advertising.

§ 1-18.301-1 Work in the continental United States.

Contracts for construction work to be performed in the continental United States (49 States on the North American Continent and the District of Columbia) may be negotiated only if authorized pursuant to sections 302(c) (1), (2), (3), (10), (11), (12), or (14) of the Federal Property and Administrative Services Act of 1949, as amended (see section 302(e), 41 U.S.C. 252(e)), which Act is hereinafter referred to in this subpart as the "Act." The appropriate statutory provision(s) shall be cited in the contract as authority for negotiation. For implementing instructions, see Subpart 1-3.2.

§ 1-18.301-2 Work outside the continental United States.

Contracts for construction work to be performed outside the continental United States may be negotiated pursuant to the applicable paragraphs of section 302(c) of the Act, except that contracts to be performed in Hawaii, Puerto Rico, or any possession of the United States may not be negotiated under section 302(c) (6). Negotiated contracts shall include a citation to the statutory authority for negotiation.

§ 1-18.302 Contracts estimated not to exceed \$2,500.

Section 302(c) (3) of the Act authorizes the use of negotiation for contracts which do not exceed \$2,500. Policies and procedures for the implementation of that authority are prescribed in Subpart 1-3.6, Small Purchases. Notwithstanding the provisions of Subpart 1-3.6, the policies and procedures contained therein shall not be applied to construction contracts estimated to exceed \$2,000. However, this prohibition does not apply to the negotiation of a contract where the estimated contract price is \$2,000 or less but the contract price which ultimately is negotiated exceeds that amount. In such cases, if the price does not exceed \$2,500, award may be made pursuant to the policies and procedures in Subpart 1-3.6 and the authority in section 302(c) (3) of the Act. If the price exceeds \$2,500, other authority for negotiation must be found.

§ 1-18.303 Price negotiation policies and procedures.

The policies and procedures in Subpart 1-3.8 shall be followed regardless of the type of contract used. Where a cost-plus-a-fixed-fee contract is used, the fee shall be determined in accordance with agency procedures. The statutory limit for such fees is 10 percent of the estimated cost of the contract (see § 1-3.405-5(c)).

§ 1-18.304 Subcontracting with small business concerns.

See § 1-1.710.

§ 1-18.305 Subcontracting policies and procedures.

(a) *Review and approval of contractor's purchasing system and subcontracts.* See § 1-3.903.

(b) *Subcontracting by cost-reimbursement type construction contractors.* (1) Construction work under a cost-reimbursement type prime construction contract that is to be subcontracted shall be performed to the fullest extent practicable under unit-price or lump-sum subcontracts obtained by competitive bids. Each project or phase thereof under a general contractor shall be analyzed by the contractor, in conjunction with the contracting agency, to determine those elements which can be performed under a fixed-price subcontract.

(2) The apportionment of work between the prime and subcontractors shall be based on the best interests of the Government, taking into consideration all factors including the following:

(i) The general practice of the construction industry of utilizing subcontractors for certain specialty phases of the work;

(ii) The additional management, technical, and craft skills which a specialty subcontractor may contribute to the efficient prosecution of the work, particularly on complex industrial-type facilities which require maximum concentration of such skills;

(iii) The qualifications of the prime contractor to perform such specialty work, based on the extent to which he has customarily performed the work with his own organization and the competency of his available organization to perform the work; and

(iv) The amount of work that should be performed by the prime contractor in order to ensure adequate supervision of the project (see § 1-18.104).

§ 1-18.306 Preparation for negotiation.

§ 1-18.306-1 Fixed-price type contracts.

(a) Proposals and, where required, cost or pricing data submitted by potential contractors shall be evaluated and compared with the Government estimate required by § 1-18.108. Proposals shall be required in all cases, and cost or pricing data shall be required as provided in § 1-3.807-3. Subject to the provisions of § 1-3.807-3, such data shall be required, to the extent necessary, in any case where there are significant differences between the Government estimate and the proposals submitted on any item. All data shall be evaluated and analyzed, as shall cost or pricing data on subcontracts (§ 1-3.807-10) when such data is requested by the contracting officer.

(b) Where appropriate, additional pricing tools may be used, such as comparison of current prices for similar features of work, adjusted for differences in site and specifications. In addition, rough yardsticks such as cost per cubic foot for structures, cost per linear foot

for utilities, cost per cubic yard for excavation, concrete, etc., may be developed and compared with proposed prices which are questioned.

§ 1-18.306-2 Cost-reimbursement type contracts.

(a) *Use of cost-reimbursement type contract.* This type of contract may be used only when it is consistent with § 1-3.405.

(b) *Information to be prepared for negotiating.*—(1) *Description of the facility.* A sufficiently detailed description of the facility to be constructed shall be provided to permit an evaluation of the magnitude, physical characteristics, and complexity of its major components. For example:

(i) Major buildings and other structures, including the number of each type and an explanation of the functional requirements for each;

(ii) Major utilities; and

(iii) Major equipment to be installed by the contractor.

(2) *Services required of the contractor.* A statement should be prepared which gives the extent to which the contractor shall:

(i) Perform work with his own forces;

(ii) Procure services of subcontractors;

(iii) Procure materials and equipment;

(iv) Supervise the project; and

(v) Provide other services.

(3) *Estimated cost and time for completion.* (i) Prepare an estimate of the total cost of construction, exclusive of the contractor's fee broken down by the major components listed in the description required by paragraph (b) (1), above. To the extent available, identify labor, material, and indirect costs, and any amount included for contingencies. List separately materials and equipment that will be furnished by the Government and the total related cost.

(ii) Prepare an estimated time for completion with an explanation of the basis therefor.

(4) *Maximum fixed fee.* Determine, in accordance with agency procedures, the maximum fixed fee that may be paid for the required services.

(c) *Conclusion of negotiations.* Negotiations relative to the contract and fee shall be concluded at as early a date as practicable. When mutually acceptable terms of contract, estimate of cost, and estimate of time of performance have been agreed to, the fixed fee should be negotiated. Generally, negotiations relative to the fee shall be successfully concluded prior to making commitment on final selection. In the event it is necessary to use a letter contract, it should include the basis for determining the fee, which establishes the possible range of fees for the work. Should it be evident in the course of negotiations that no hope exists for a meeting of the minds within the previously determined maximum allowable (ceiling) fee, then consideration should be given to terminating negotiations and entering into a similar action with the next best qualified contractor (§ 1-18.307-2).

§ 1-18.306-3 Selection of a cost-reimbursement type contractor.

(a) Construction contractors for cost-reimbursement type contracts shall be selected on the basis of qualifications and the ability to provide the particular services required (see § 1-3.805-2). The evaluation for purposes of determining relative qualifications of firms under consideration should be performed in accordance with agency procedures.

(b) Fee proposals for construction services should be secured as a part of the selection procedure if evaluation shows that there are several available contractors equally well qualified to undertake construction of a project on a CPFF basis, and if the scope is sufficiently defined to permit a reasonably accurate estimate of the cost of the work. Where these conditions prevail and amounts of the fee proposals are the only significant differences in the overall proposals of several equally qualified construction contractors, the contract should be awarded on the basis of the lowest reasonable fee proposal.

(c) A completely documented record shall be made of all steps and decisions in the selection of a contractor.

§ 1-18.307 Negotiations.

§ 1-18.307-1 Fixed-price construction contracts.

Negotiations will be conducted with the responsive offerors within a competitive price range except where an award is made on initial proposals without negotiations, all as provided in § 1-3.805.

§ 1-18.307-2 Cost-reimbursement type contracts.

(a) Negotiations shall be conducted in accordance with agency procedures.

(b) The factors set forth in § 1-3.808 should be considered in negotiating the fee for a cost-reimbursing type contract.

§ 1-18.308 Audit as a pricing aid.

See § 1-3.809.

§ 1-18.309 Record of negotiations.

The record of negotiations shall demonstrate conformity with the requirements of § 1-3.101 and, to the extent applicable, include the general type of information indicated in the paragraphs below. The scope and detail of information to be included generally should be determined on the basis of the nature, dollar value, and complexity of the transactions involved:

- (a) Name and address of contractor;
- (b) Location of construction site;
- (c) Contract number;
- (d) Nature of contract action (letter contract, conversion of letter contract, etc., as well as type of contract);
- (e) Program basis for the contract;
- (f) Description of the project;
- (g) Total price or estimated cost;
- (h) Term of contract and construction schedules;
- (i) Justification for use of negotiation in lieu of formal advertising;

(j) The request for proposals;

(k) Number of firms invited to submit proposals and a list of the firms quoting along with their respective quotations;

(l) Reasons for selection of the proposed contractor (If a fixed-price award is made to other than the low offeror, explain.);

(m) A summary of principal points involved in negotiation and the final results thereof (The record should be in sufficient detail to reflect the most significant considerations controlling the establishment of the initial or revised price or fee.);

(n) For fixed-price contracts, an explanation of why cost or pricing data were, or were not, required (see § 1-3.807) and, if not required in the case of any price negotiation in excess of \$100,000, give the basis for determining that the price resulted from adequate price competition (If cost or pricing data were submitted and a certificate of cost and pricing data was required (§ 1-3.807-4), show the reliance placed upon the factual cost or pricing data submitted and the use of these data by the contracting officer in determining his total price objective.);

(o) For cost-reimbursement type contracts, the fee determination in detail including the cost breakdown used to arrive at the estimated cost for fee computation purposes;

(p) Names and locations, when available, of prospective subcontractors and estimated amounts of respective subcontracts which will exceed \$100,000;

(q) If the contract contains any form of price redetermination or escalation, the reasons for such inclusion;

(r) General types and values of Government property to be furnished;

(s) Funding data; and

(t) The names and affiliations of all persons taking part in or present at the negotiations.

Subpart 1-18.4—[Reserved]

Subpart 1-18.5—[Reserved]

Subpart 1-18.6—Buy American Act

§ 1-18.600 Scope.

This subpart implements the Buy American Act (41 U.S.C. 10a-10d) and the policies set forth in Executive Order 10582, December 17, 1954 (3 CFR, 1954-1958 Comp., p. 230), as amended by Executive Order 11051, September 27, 1962 (3 CFR, 1959-1963 Comp., p. 635), with respect to construction contracts.

§ 1-18.601 Definitions.

As used in this subpart, the following definitions apply:

(a) "Construction" means construction, alteration, or repair of any public building or public work.

(b) "Construction material" means any article, material, or supply brought to the construction site for incorporation in the building or work.

(c) "Component" means any article, material, or supply directly incorporated in construction material.

(d) "Domestic construction material" means an unmanufactured construction

material which has been mined or produced in the United States, or a manufactured construction material which has been manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the construction material and, in the case of components of foreign origin, duty (whether or not a duty-free entry certificate may be issued).

(e) "Nondomestic construction material" means a construction material other than a domestic construction material.

(f) "United States" means the States, the District of Columbia, Puerto Rico, American Samoa, the Canal Zone, the Virgin Islands, and any other place subject to its jurisdiction.

§ 1-18.602 Buy American policy.

§ 1-18.602-1 General.

Only domestic construction material shall be used in the performance of contracts for construction in the United States made by executive agencies, except for particular material as to which it is determined:

(a) By the agency head, that to make such requirement is impracticable;

(b) In accordance with agency procedures, that domestic construction material is unavailable in sufficient and reasonably available commercial quantities and of a satisfactory quality; or

(c) In accordance with § 1-18.603, that to make such requirement would unreasonably increase the cost.

§ 1-18.602-2 Determining domestic construction material.

In determining whether a construction material is a domestic construction material:

(a) Only the construction material and its components shall be considered; and

(b) A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the construction material in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the agency concerned to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

§ 1-18.602-3 Panamanian material used in Canal Zone.

Construction material mined, produced, or manufactured in the Republic of Panama, when purchased for use in the Canal Zone, is exempted from the provisions of the Buy American Act (under item 3 of the Memorandum of Understanding Reached Ancillary to the Treaty of Mutual Understanding and Cooperation between the United States of America and the Republic of Panama, signed January 25, 1955).

§ 1-18.602-4 Noting exceptions and findings.

Exceptions for nondomestic construction material because use of particular domestic construction material would be impracticable or would unreasonably increase the cost or because domestic construction materials is unavailable shall be noted in the contract. Findings justifying such exceptions shall be made a matter of public record.

§ 1-18.603 Unreasonable cost determination.

§ 1-18.603-1 General.

A determination shall be made that the use of domestic construction material would unreasonably increase the cost where, with respect to each particular construction material:

(a) A bid or proposal offers nondomestic construction material (not listed as excepted in the invitation for bids or request for proposals), the cost of which, plus 6 percent thereof, is less than the cost of comparable domestic construction material; and

(b) That bid or proposal offers the lowest price of any received, after adding to each bid or proposal, for evaluation purposes, 6 percent of the cost of all nondomestic construction material, which qualifies under paragraph (a), above, offered in each bid or proposal.

§ 1-18.603-2 Cost computation.

The cost of construction material shall be computed as including all cost of delivery to the construction site. The cost of nondomestic construction material shall also include any applicable duty. Computations shall be based on costs on the date of opening of bids or proposals.

§ 1-18.603-3 Deviations by agency head.

Deviations from the requirements of § 1-18.603-1 may be authorized by the agency head in accordance with § 1-1.009 of this chapter, the Buy American Act, and Executive Orders 10582 and 11051.

§ 1-18.603-4 Small business.

Nothing in § 1-18.603-1 shall affect the authority or responsibility of an executive agency to place a fair proportion of its total contracts with small business concerns.

§ 1-18.604 Invitation provision.

Except for contracts executed on Standard Form 19, invitations for bids and requests for proposals for affected construction work shall include the following provision:

INFORMATION REGARDING BUY AMERICAN ACT

(a) The Buy American Act (41 U.S.C. 10a-10d) generally requires that only domestic construction material be used in the performance of this contract. (See the clause entitled "Buy American" in Standard Form 23A, General Provisions, Construction Contract.) This requirement does not apply to the following construction material or components:

[List the excepted construction material or components.]

(b) (1) Furthermore, bids or proposals offering use of additional nondomestic construction material may be acceptable for award if the Government determines that use of comparable domestic construction material is impracticable or would unreasonably increase the cost or that domestic construction material (in sufficient and reasonably available commercial quantities and of a satisfactory quality) is unavailable. Reliable evidence shall be furnished justifying such use of additional nondomestic construction material.

(2) Where it is alleged that use of domestic construction material would unreasonably increase the cost:

(i) Data shall be included, based on a reasonable canvass of suppliers, demonstrating that the cost of each such domestic construction material would exceed by more than 6 percent the cost of comparable nondomestic construction material. (All costs of delivery to the construction site shall be included, as well as any applicable duty.)

(ii) For evaluation purposes, 6 percent of the cost of all additional nondomestic construction material, which qualifies under paragraph (1), above, will be added to the bid or proposal.

(3) When offering additional nondomestic construction material, bids or proposals may also offer, at stated prices, any available comparable domestic construction material, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable, under (1), above, will cause rejection of the entire bid.

§ 1-18.605 Contract clause.

Except for contracts executed on Standard Form 19, contracts for affected construction work shall include the following clause:

BUY AMERICAN

(a) *Agreement.* In accordance with the Buy American Act (41 U.S.C. 10a-10d), and Executive Order 10582, December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27, 1962 (3 CFR, 1959-63 Comp., p. 635), the Contractor agrees that only domestic construction material will be used (by the Contractor, subcontractors, materialmen, and suppliers) in the performance of this contract, except for nondomestic material listed in the contract.

(b) *Domestic construction material.* "Construction material" means any article, material, or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material.

(c) *Domestic component.* A component shall be considered to have been "mined, produced, or manufactured in the United States" (regardless of its source in fact) if the article, material, or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

§ 1-18.606 Violations.

If the head of the agency concerned finds there has been a failure to comply with the Buy American provisions of the contract, he shall make public his findings and no other contract for the construction, alteration, or repair of any public building or public work in the United States or elsewhere shall be awarded, as provided in the Buy American Act, to the contractor, subcontractors, materialmen, or suppliers with which the contractor is associated or affiliated, for a period of 3 years after such finding is made public. (For debarment procedures, see Subpart 1-1.6.)

Subpart 1-18.7—[Reserved]

Subpart 1-18.8—Termination of Construction Contracts

§ 1-18.800 Scope.

This subpart sets forth policies and procedures regarding the termination of contracts for the convenience of the Government or for default which supplement the policies and procedures in Part 1-8.

§ 1-18.801 Definitions.

See § 1-8.101. As used in this subpart, the following terms have the meanings set forth below.

(a) "Construction equipment" means automotive vehicles, earth movers, cranes, batching plants, crushers, pavers, mixers, generators, compressors, pumps, drills, welders, forms, and other items of equipment (other than hand tools) used or capable of being used in construction work.

(b) "Terminated portion of the contract" with respect to a contract which has been completely terminated for the convenience of the Government means the entire contract, notwithstanding the completion of, and payment for, individual items of work prior to termination (see § 1-18.802-4).

§ 1-18.802 Termination for convenience of the Government.

See Subpart 1-8.2 for general principles and procedures applicable to all terminations for the convenience of the Government, Subpart 1-8.3 for general principles and procedures applicable to termination of fixed-price contracts for convenience, and Subpart 1-8.4 for general principles and procedures applicable to termination of cost-reimbursement contracts for convenience.

§ 1-18.802-1 Use of clauses.

Use of a clause providing for termination for convenience of the Government is required in every construction contract in excess of \$10,000. Contracts which do not exceed \$10,000 may provide for termination for convenience. The specific requirements regarding the use of such clauses are as follows:

(a) *Fixed-price construction contracts.* See § 1-8.700-2(a) (5) and (6) regarding the use of Termination for Convenience of the Government clauses.

(b) *Cost-reimbursement type construction contracts.* (1) See § 1-8.700-2

RULES AND REGULATIONS

(a) (3) regarding the use of Termination for Convenience of the Government clauses.

(2) See § 1-8.700-2(c) regarding the use of an Excusable Delays clause.

§ 1-18.802-2 Submission of settlement proposals.

The settlement proposal formats prescribed in §§ 1-8.802 and 1-8.803 may be used with such modifications as agencies consider necessary.

§ 1-18.802-3 Bases for settlement proposals.

See § 1-8.307-2.

(a) *Inventory basis.* The inventory basis of settlement is appropriate for use under the following circumstances:

(1) The partial termination of a construction contract; and

(2) The partial or complete termination of supply orders under any terminated construction contract.

(b) *Total cost basis.* The total cost basis of settlement shall be used in all cases where a construction contract is completely terminated. Line 10, section II of the format set forth in § 1-8.802-2, "Deduct—Finished Product Invoiced or To Be Invoiced" is not to be used. All progress and other payments shall be used to reduce the gross amount of the settlement.

§ 1-18.802-4 Completed items.

Work in place accepted by the Government under a fixed-price construction contract is not to be considered a completed item even though that work may have been paid for at prices set forth in the contract.

§ 1-18.802-5 Allowance for profit.

See § 1-8.303. In a construction contract, for the purpose of computing profit, that portion of settlements by the prime contractor with construction subcontractors for actual work in place at the job site, as distinguished from materials on hand and preparations made to complete the work, shall be considered compensation for services delivered to the prime contractor prior to the effective date of termination.

§ 1-18.802-6 Contractor inventory.

This subpart and Subpart 1-8.5 cover the disposition of all contractor inventory (§ 1-8.101(e)) generated under construction contracts. They apply to termination inventory and to any other inventory which is:

(a) Excess because of a contract modification; or

(b) Excess under a price revision type contract; and the cost thereof is included in the contractor's claim for an equitable adjustment or revision in price. They also apply to all property which is excess to the requirements of a cost-reimbursement type contract and include excess Government-furnished property under any type contract.

§ 1-18.802-7 Separate schedules.

See § 1-8.503-2. Construction equipment shall be submitted on separate inventory schedules.

§ 1-18.802-8 Return of materials to stock.

Materials taken from stock and shipped to the construction site shall be considered common items (§§ 1-8.101(b) and 1-8.503-5) and shall be returned to stock unless the contractor establishes that such items cannot be utilized without loss. Contractors shall not include in their settlement proposals the cost of any material so returned. Any costs in connection with the withdrawal, replacement, or transportation of such materials may be included as "Other Costs." (Section II, Item 8, and Section II, Item 5, respectively, of the formats set forth in §§ 1-8.802-1 and 1-8.802-2.)

§ 1-18.802-9 Allocability of contractor-acquired property on inventory schedules.

It is the responsibility of the contracting officer to determine that all property listed on inventory schedules is qualitatively and quantitatively allocable to the terminated contract or the terminated portion thereof, taking into consideration any work in place. Also, where applicable, the contracting officer must determine that the difference between the cost of allocable property on the inventory schedules and the total cost of property included in the settlement represents the cost of property incorporated in the work or consumed in the performance thereof.

§ 1-18.802-10 Contractor's certificate—property incorporated in work.

Each contractor whose settlement proposal includes the cost of property (materials, etc.), incorporated into the work shall execute a certificate to the effect that all property not accounted for on the inventory schedules has been incorporated into the work or consumed in the performance thereof.

§ 1-18.802-11 Inventory at construction site.

Every effort will be made by the contracting officer to relieve the contractor, as promptly as possible, of the responsibility for the preservation and protection of termination inventory located at the construction site. Property, including construction equipment, which is not to be included on inventory schedules shall be removed by the contractor as promptly as possible.

§ 1-18.802-12 Screening of property.

See § 1-8.505.

§ 1-18.802-13 Contracts for other departments or agencies.

Where a contract cites funds of a department or agency other than the department administering the contract, such department or agency shall have the first priority to all property listed on inventory schedules in accordance with any regulations issued by that department or agency.

§ 1-18.802-14 Transfer of property.

See § 101-43.315 of the Federal Property Management Regulations (Title 41, Code of Federal Regulations).

§ 1-18.802-15 Cleanup of site.

The contracting officer shall direct such action as will ensure the cleanup of the site, protection of serviceable materials, removal of hazards, and such other action as will leave a safe and healthful site.

§ 1-18.802-16 Final payment.

See § 1-8.212-2. Prior to presenting the final payment voucher to the disbursing officer, after termination action, the contracting officer shall ascertain whether there are any outstanding labor violations. If so, the contracting officer shall determine, pursuant to the criteria set forth in § 1-12.404-9, the amount to be withheld from the final payment voucher by reason of such violations.

§ 1-18.802-17 Adjustment of fee.

(a) The termination clauses in § 1-8.702 as changed by § 1-18.804-2 provide that the contracting officer and the contractor may agree upon, i.e., negotiate, the adjustment in fee necessitated by a partial or complete termination of the contract. Where the parties are unable to agree, the fee is to be adjusted as prescribed in paragraph (e) of such clauses.

(b) Where the contract has been terminated for the convenience of the Government, the percentage of completion basis, generally, constitutes a fair and equitable method of adjusting the fee. The percentage of completion basis refers to the contractor's total effort and not solely to the actual construction work. Generally, the effort of a contractor under a cost-reimbursement type construction contract can be segregated into factors such as: Mobilization including organization, use of finances, procurement and receipt of materials, placement of subcontracts, preparation of shop drawings, work in place performed by own forces, supervision of subcontractors' work, job administration, and demobilization. Each of the applicable factors will then be weighed, predicated upon a proper evaluation and sound judgment of the importance and difficulty of each factor under the circumstances of each individual contract. One method of weighting the applicable factors is to assign weighted values totaling 100. Next, the percentage of completion of each factor must be established based upon the specific facts of each contract. The application of the percentage of completion of each factor to the weighted value of each factor results, when totaled, in the overall percentage of contract completion. Such percentage of completion is then applied to the total contract fee or to the fee applicable to the terminated portion of the contract to arrive at the adjustment necessitated by the termination. Where agreement cannot be reached, the contracting officer shall determine the percentage of completion as above indicated. Where considered necessary, the contracting officer may consider and allow in the fee adjustment an amount to fairly compensate the contractor for work done, if any, in

settling claims of subcontractors and disposing of termination inventory.

§ 1-18.803 Default termination of fixed-price construction contracts.

§ 1-18.803-1 Termination of the contractor's right to proceed.

Under contracts containing either of the Termination for Default-Damages for Delay-Time Extensions clauses set forth in § 1-8.709, the Government has the right, to the extent provided in such clauses, to terminate the contractor's right to proceed with the work, or any separable part thereof, if the contractor does not prosecute the work required by the contract with such diligence as will ensure its completion, or fails to complete it, within the time specified in the contract or any extension thereof.

§ 1-18.803-2 Procedure in lieu of termination for default.

If, after due consideration, the contracting officer determines that termination is not in the best interest of the Government, although the contractor is in default, the contracting officer may permit the contractor to continue the work, and the contractor and his sureties shall be liable to the Government for liquidated damages, as specified in the contract, or if liquidated damages are not so specified, for any actual damages occasioned by the failure of the contractor to complete the work in accordance with the terms of the contract.

§ 1-18.803-3 Effect of termination for default.

If a contractor's right to proceed is terminated for default, the Government may take over and complete the work or cause it to be completed, and the contractor and his sureties shall be liable to the Government for any increased costs caused thereby. If the contract contains the clause set forth in § 1-8.709-1, the contractor and his sureties shall, in addition to increased costs in completing the work, be liable for liquidated damages if liquidated damages are provided in the contract, or for actual damages if liquidated damages are not so provided.

§ 1-18.803-4 Preliminary notice.

(a) Whenever a termination for default appears imminent, a written notification of that fact (not an actual notice of default) should be given by the contracting officer to the contractor and the surety.

(b) If requested by the surety, and agreed to by the contractor and his assignees, if any, arrangement may be made to have future checks mailed to the contractor in care of the surety. In such a case, the contractor must forward a written request to the contracting officer specifically directing a change in address for mailing of checks.

§ 1-18.803-5 Procedure in case of default.

(a) The contracting officer shall consider the following factors in determining whether to terminate a contract for default:

(1) The provisions of the contract and applicable laws and regulations;

(2) The specific failure of the contractor and excuses, if any, made by the contractor for such failure (see (b) and (c) of § 1-8.601 as to the result of termination for default where causes of delay are subsequently found to have been excusable);

(3) The period of time which would be required for the Government or another contractor to complete the work as compared to the time required for completion by the delinquent contractor;

(4) The effect of a termination for default on the ability of the contractor to liquidate guaranteed loans, progress payments, or advance payments;

(5) The availability of funds to finance the increased cost to complete, to the extent that such costs may not be covered by surety protection, and the availability of funds to finance termination costs should it subsequently be determined that the delay was excusable; and

(6) Any other pertinent facts and circumstances.

(b) If the contracting officer determines that the contractor's failure to perform arises from causes which are excusable under the terms of the contract, the contracting officer must extend the time for completing the work under either of the clauses in § 1-8.709, and may not terminate the contractor's right to proceed nor charge the contractor with liquidated damages (or if no liquidated damages, then actual damages) because of any delays occasioned by such causes. However, if the Government must secure performance before the extended completion date, it may consider the following alternatives:

(1) Amendment of the contract to provide for acceleration of the work to meet the Government's needs; or

(2) If amendment to provide for acceleration cannot be accomplished:

(i) Termination for the convenience of the Government if such a clause is included, or, if not included, amendment of the contract so as to include it; or

(ii) Where termination cannot be made under (i), unilateral termination.

(c) If the contracting officer determines that termination for default is in the best interest of the Government, he shall promptly send a written notice to the contractor terminating his right to proceed. The notice shall:

(1) Set forth the contract number and date;

(2) Describe the act or omissions, and the extent of the resultant delay, constituting the default;

(3) State that the contractor's right to proceed further with performance of the contract (or of a specified portion of the contract) is terminated;

(4) State that the Government may cause the contract to be completed and that the contractor will be held liable for any increased costs;

(5) State that the Government reserves all rights and remedies provided by law or under the contract, in addition to charging increased costs;

(6) State that the notice constitutes a decision, pursuant to the Disputes clause, that the contractor is in default as specified and that the contracting officer has determined that the delay is not excusable; and

(7) State that the contractor has the right to appeal as specified in the Disputes clause (see § 1-1.318).

(d) The same distribution shall be made of the termination notice as was made of the contract. In addition, a copy shall be furnished to the surety at the same time the notice is furnished to the contractor, together with a request that the surety advise whether it desires to complete the work, and the procuring activity fiscal office shall be advised to withhold further payments under the terminated contract pending additional instructions which shall be given when sufficient information is available.

(e) Promptly after issuance of the termination notice, the contracting officer shall determine the manner in which the work is to be completed and whether the materials, appliances, and plant which are on the site will be needed.

§ 1-18.803-6 Dealings with surety-takeover agreements.

(a) By reason of the surety's liability for damages resulting from the contractor's default, the surety has certain rights and interests in connection with the completion of the contract work and the application of the undisbursed funds available therefor. An expenditure in excess of the amount reasonably necessary for completion or a diversion of funds to other use may result in reducing the surety's liability. Because of such interests of the surety, proposals by the surety concerning the completion of the work should be given due consideration, and the decision as to the action to be taken shall be made on the basis of the best interest of the Government, including the possible effect of such action upon the Government's rights against the surety.

(b) Where the surety desires to complete the contract work, completion by the surety should normally be permitted unless the contracting officer has reason to believe that the persons, firms, or corporations by whom the surety proposes to have the work done are so incompetent or unqualified that the interests of the Government would be substantially prejudiced by their efforts.

(c) Because of the possibility of conflicting claims to unpaid prior earnings (retained percentages or amounts representing unpaid progress estimates) of the defaulting contractor, the surety may condition its offer of completion upon the execution by the Government of a "takeover" agreement fixing the surety's rights to payment from such funds. In that event, the contracting officer may in his discretion (but not before the effective date of termination) enter into a written agreement with the surety. Further, consideration should be given to having the agreement include both the surety and the defaulting contractor in order to eliminate any disagreement as to the contractor's residual rights, such as

claims to unpaid prior earnings. The agreement shall provide that the surety will undertake to complete the work required by the contract in accordance with all the terms and conditions of the contract, and that the Government will pay the surety in the manner provided by the contract, but not in excess of the surety's costs and expenses, the balance of the contract price unpaid at the time of default; subject, however, to the following conditions:

(1) Any unpaid earnings of the defaulting contractor, including retained percentages and progress estimates for work accomplished prior to termination, shall be subject to claims by the Government against the contractor, except to the extent that the amount thereof may be required to pay to the completing surety its actual costs and expenses incurred in the completion of the work, exclusive of its payments and obligations under the payment bond given in connection with the contract.

(2) Such agreement shall not waive or release the Government's right to liquidate damages for delays in completion of the work, except to the extent that such delays may be excused under the provisions of the contract.

(3) If the contract proceeds have been assigned to a financing institution, the surety may not be paid from retained percentage or amounts representing unpaid progress estimates earned by or payable to the contractor unless the assignee shall consent in writing to such payment.

(4) In no event shall the surety be entitled to be paid any amount in excess of its total expenditures necessarily made in completing the work and discharging its liabilities under the payment bond of the defaulting contractor. Furthermore, payments to the surety to reimburse it for discharging its liabilities under the payment bond of the defaulting contractor shall be only on authority of (i) mutual agreement between the Government, the defaulting contractor, and the surety, (ii) determination of the Comptroller General as to payee and amount, or (iii) order of a court of competent jurisdiction.

§ 1-18.803-7 Completion by another contractor.

Where the surety does not complete performance of the contract, the contracting officer normally will complete the performance of work by awarding a new contract based on the same plans and specifications. Although the legal requirements with respect to formal advertising are inapplicable, such contract shall be awarded on the basis of formal advertising, except where there is good reason to negotiate. The contracting officer must use reasonable diligence to obtain the lowest price available for completion.

§ 1-18.803-8 Documentation in contract file.

In all cases where a contractor's right to proceed is terminated for default or where the procedure authorized by § 1-

18.803-2 is followed, the contract file shall be well documented to explain fully the reasons for the action taken.

§ 1-18.803-9 Liquidation of liability.

In accordance with the provisions of the contract, the contractor and his surety are liable to the Government for resulting damages including those administrative costs which are necessary for, and directly assignable to, completing the work following such termination and which would not have been required had termination not been necessary. All retained percentages of progress payments previously made to the contractor and any progress payments due for work completed prior to the termination of the right to proceed shall be used for the purpose of liquidating the liability of the contractor and his surety to the Government for such damages. Where the retained and unpaid amounts are insufficient to liquidate such liability, steps shall be taken to recover the additional sum from the contractor and his surety.

§ 1-18.803-10 Withholding for labor violations.

Any amounts necessary to pay laborer and mechanic wages due under the contract shall be withheld until evidence of proper payment is given, or such amounts shall be transferred to the Comptroller General (see § 1-12.404-9).

§ 1-18.804 Use of termination for default clauses.

(a) *Fixed-price construction contracts.* See § 1-8.700-2(b)(4) regarding the use of a default clause in contracts estimated to exceed \$10,000, and § 1-8.700-2(b)(5) regarding the use of a default clause in contracts estimated not to exceed \$10,000.

(b) *Cost-reimbursement type construction contracts.* See § 1-8.700-2(b)(2) regarding the use of a default clause.

§ 1-18.805 Formats of notices of termination for convenience of construction contracts.

§ 1-18.805-1 Telegraphic notices.

See formats in § 1-8.801-1.

§ 1-18.805-2 Letter notices.

See formats in § 1-8.801-2.

Subpart 1-18.9—[Reserved]

Subpart 1-18.10—Bonds and Insurance

§ 1-18.1000 Scope.

This subpart sets forth requirements for bid guarantees, bonds, and insurance in construction contracts.

§ 1-18.1001 Bid guarantees.

Subpart 1-10.1 shall govern bid guarantees for construction contracts, insofar as applicable. Whenever performance and payment bonds are to be required in connection with construction contracts, the invitation for bids or request for proposals shall require the submission of bid guarantees meeting the requirements of that subpart.

§ 1-18.1002 Performance bonds in connection with construction contracts.

Furnishing of performance bonds for construction contracts is governed by § 1-10.104-1. Where required, such bonds shall be furnished prior to issuance of notice to proceed with the work.

§ 1-18.1003 Payment bonds in connection with construction contracts.

Furnishing of payment bonds in connection with construction contracts is governed by § 1-10.105-1. Where required, such bonds shall be furnished prior to issuance of notice to proceed with the work.

§ 1-18.1004 Furnishing information to subcontractors and suppliers.

See § 1-10.105-3.

§ 1-18.1005 Default procedures.

See § 1-18.803.

§ 1-18.1006 Consent of surety.

See § 1-10.205.

§ 1-18.1007 Insurance.

See Subparts 1-10.3, 1-10.4, and 1-10.5.

Subpart 1-18.11—Federal, State, and Local Taxes

§ 1-18.1101 Cross-reference.

See Part 1-11.

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

Effective date. This amendment is effective December 17, 1968.

Dated: September 17, 1968.

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

[F.R. Doc. 68-11522; Filed, Sept. 20, 1968; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter 1—Federal Communications Commission

[Docket No. 18004; FCC 68-936]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Standard Frequency for Search and Rescue Operations

In the matter of amendment of Parts 2 and 87 of the Commission's rules to change Search and Rescue Operations from 121.6 Mc/s to 123.1 Mc/s.

1. The Commission on February 13, 1968, released a notice of proposed rule making in the above-entitled matter (FCC 68-133) which made provision for the filing of comments by interested persons. The notice was published in the FEDERAL REGISTER on February 17, 1968 (33 F.R. 3141). The time for filing comments and reply comments has passed.

2. The primary purpose of this rule making is to standardize, on a virtually worldwide basis, 123.1 Mc/s as the frequency for Search and Rescue (SAR) scene-of-action operations. Currently, the United States and Canada use 121.6 Mc/s for SAR scene-of-action operations. The frequency 123.1 Mc/s is currently available in the United States for flight test and instructional stations. In order to allow for coordinated implementation of 123.1 Mc/s with Canada a changeover date of January 1, 1969, has been mutually agreed to between the two administrations.

3. Comments were received from Aerospace and Flight Test Radio Coordinating Council (AFTRCC) and Bell Telephone Laboratories, Inc. A joint comment was filed by Air Transport Association (ATA) and Aeronautical Radio, Inc. (ARINC). No reply comments were filed. None of the respondents opposed the concept of a standard worldwide frequency (123.1 Mc/s) for SAR scene-of-action operations. The comments, however, do raise questions as to transitional arrangements and provisions for accommodating the present users of 123.1 Mc/s (flight test stations and aviation instructional stations) who must vacate the frequency.

4. Bell Telephone Laboratories offered the following suggestions:

(a) That the rule making show a schedule providing for orderly transition from the vacated frequencies to replacing frequencies where flight test and instructional licensees would be accommodated. Bell feels that licensees whose renewals would predate the proposed frequency transition could be encouraged to transfer to the replacing frequencies as a condition of continued eligibility for full license term. In addition, provision for earlier occupancy on the replacing channels would minimize the problems on scheduling down-time for crystal replacement, tuning and antenna adjustments.

(b) Bell further suggests that, where possible, consideration be given to assigning channels adjacent to channels already authorized to affected licensees. This is based on the fact that antenna efficiencies are best realized when the tuning discrepancies between frequencies are minimized.

5. ATA and ARINC assert that the airlines will have to modify approximately 350 transmitter/receiver units. They request, therefore, that the Commission permit units to be crystallized for either the present frequency (121.6 Mc/s) or the new frequency (123.1 Mc/s) during the period prior to January 1, 1969. This would, of course, allow for a gradual transition and not require any wholesale shift on January 1, 1969.

6. AFTRCC, whose membership includes major entities in the aerospace manufacturing field, has taken the position that it would not oppose the change from 121.6 Mc/s to 123.1 Mc/s, but a substitute frequency should be made available for 123.1 Mc/s in order that the aviation manufacturing industry would retain enough frequencies to perform efficiently the mandatory function of air-

borne flight testing of experimental and production aircraft or major components. With respect to the substitute frequency 121.95 Mc/s which the Commission had proposed for flight test assignments only, AFTRCC stated it did not have sufficient information to comment on possible problems which might result from usage of frequencies adjacent to 121.95 Mc/s. However, it recommended the following plan:

(a) In areas where there is significant interference between flight test stations and aviation instructional stations on 123.1, 123.3 and 123.5 Mc/s the instructional stations should be moved to 121.95 Mc/s.

(b) 121.95 Mc/s should also remain available for the meeting of critical flight test requirements. In areas where there is not heavy loading on this frequency by instructional stations, important and needed flight test usage could be accommodated.

AFTRCC recommends as it did in Docket 17870 that all flight test frequencies be coordinated before assignment. In this connection AFTRCC is of the opinion that if 121.95 Mc/s requires light traffic loading to preclude interference with adjacent channels, the coordination of all flight test frequencies will greatly assist in obtaining this objective.

7. With respect to Bell's comments concerning renewals that predate the January 1, 1969, changeover date, the Commission plans on the effective date of this Report and Order to stop authorizing 123.1 Mc/s for use in any flight test or aviation instructional station. This will be true whether the application is for a new facility or a renewal of an existing station license. A replacement frequency will be provided where appropriate. The matter of greater antenna efficiency being realized when the tuning discrepancies between frequencies is minimized is recognized. The Commission will attempt to make replacement assignments so as to minimize any loss in antenna efficiency. This would also be consistent with the concept, referred to in paragraph 12 below, of not automatically changing all users of 123.1 Mc/s over to 121.95 Mc/s.

8. The ARINC and ATA request to allow use of either 121.6 or 123.1 Mc/s for SAR during the changeover does not present any problem from a Commission standpoint. It is our understanding that during this period SAR aircraft within the Canadian Armed Forces will maintain a dual capability on 121.6 and 123.1 Mc/s and our Government SAR aircraft will have the same capability. This is not to say, however, that the same degree of protection can be obtained on each frequency. During the changeover, flight test and instructional stations will continue to operate on 123.1 Mc/s. Use of this frequency for SAR operations prior to January 1, 1969, would not be on a protected basis; therefore, interference could result from flight test and instructional stations. In this connection, there are a substantial number of stations authorized the use of the frequency 123.1 Mc/s.

9. As indicated above, AFTRCC recommended that instructional stations be moved to 121.95 Mc/s when there is significant interference between flight test and aviation instructional stations on 123.1, 123.3, and 123.5 Mc/s—although the proposed rules did not provide for any instructional stations on 121.95 Mc/s. One of the objectives in the Commission's proposal for a replacement frequency was to limit the number of stations that have to change frequency. The AFTRCC recommendation could require frequency changes for instructional station licenses operating on 123.3 and 123.5 as well as 123.1 Mc/s. There does not appear to be sufficient advantage in frequency usage in the AFTRCC proposal to warrant such a result.

10. AFTRCC makes reference directly to its comments in Docket 17870 and indirectly to its petition for rule making, RM 1198, and further urges that action be taken to establish an industry coordinating committee for frequencies in the band 1485-1535 Mc/s. The extension of this proposal to include VHF by comments filed in this docket and Docket 17870 is currently, the subject of a notice of proposed rule making in Docket No. 18234.

11. With respect to the apprehension of present flight test users that they will have limited or restricted use of the replacement frequency 121.95 Mc/s because of adjacent frequency use, the Commission intends to maintain a minimum separation of one mile between a transmitter assignment on 121.95 Mc/s and adjacent 50 kc/s channel receiver installations of the established services on those frequencies. Applicants for 121.95 Mc/s will be requested to determine, at a local level, that such separation will obtain. The Federal Aviation Administration, operator of most ground traffic control on 121.9 Mc/s and the only planned government user of 122.0 Mc/s, has agreed to maintain the 1-mile separation in establishing new stations.

12. The Commission in Docket 17177 raised the question of fuller utilization of the 122-123 Mc/s band by using 50 kc/s channels. FAA, among others, expressed concern about interference. Inasmuch as no regular uses for the 50 kc/s channels were proposed we did not require utilization of the 50 kc/s channels. However, present FCC type accepted transmitters in the Aviation Services, i.e., 0.005 percent tolerance for aircraft and 0.003 percent for ground stations, are appropriate for 50 kc/s channel spacing. The smaller number of 0.01 percent transmitters being amortized should have little if any disruptive effect. If they do, the Commission has already indicated in Docket 14452 that action would be taken to eliminate the interference problem.

13. Except for the one mile separation between transmitters and adjacent channel receivers the Commission knows of no valid reason for restricting the assignment of 121.95 Mc/s because of the possibility of adjacent channel interference. To hold otherwise would not be keeping good faith with the licensees who have been required to meet new tolerances. It

accomplishes nothing and has a detrimental effect to establish new technical requirements and then continue to provide protection to equipment which does not meet those requirements. These new requirements were adopted by the Commission because they were within the state of the art and they would allow 50 kc/s channel spacing. As we said in the instant notice of proposed rule making, however, present flight test users who must change from 123.1 Mc/s will not "automatically" be assigned the frequency 121.95 Mc/s. We will attempt to "even out the loading on other frequencies currently available for flight test stations." Each application for 121.95 Mc/s will be considered by the staff with respect to existing assignments in the same area, both on this frequency and the other frequencies available. We expect assistance in this regard from any frequency coordinating committees which may result from actions taken in Docket 18234.

14. All flight test and aviation instructional stations, both ground and airborne, will have to be off of the frequency 123.1 Mc/s by January 1, 1969. This is true even though an outstanding authorization may provide for the use of 123.1 Mc/s beyond January 1, 1969. To allow present operations to continue beyond the changeover date would create the

possibility of confusion or interference to SAR operations on this frequency. Protection of 121.6 Mc/s for SAR purposes from the operation of aeronautical utility stations on the same frequency will be removed after January 1, 1969. No fee will be required for an application filed for the sole purpose of amending an authorization or pending application (if a fee is otherwise required) so as to comply with any rule amendments adopted herein.

15. In view of the foregoing, *It is ordered*, That, pursuant to the authority contained in sections 4(i) and 303 (b), (c), and (r) of the Communications Act of 1934, as amended, Parts 2 and 87 of the Commission's rules are amended effective October 28, 1968, as set forth below.

16. *It is further ordered*, That the proceeding in Docket No. 18004 is terminated.

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

Adopted: September 17, 1968.

Released: September 19, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

¹ Commissioners Bartley and Cox absent.

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is amended by deleting footnote US27, and by amending columns 5 through 11 for the frequency bands 117.975-121.975 Mc/s and 123.075-123.575 Mc/s to read as follows:

United States		Federal Communications Commission					Nature (OF SERVICES of stations)
Band (Mc/s)	Allocation	Band (Mc/s)	Service	Class of station	Frequency (Mc/s)		
5	6	7	8	9	10	11	
***	***	***	***	***	***	***	
117.975-121.975 (273) (US26) (US28) (US85)	G, NG.	117.975- 121.975	AERONAUTICAL MOBILE. (R)	Aeronautical. Aircraft.	118-121.4 (NG34) 121.5 121.6- 121.90 (NG34) 121.95	Airdrome control. AERONAUTICAL MOBILE. Aeronautical utility land; aeronautical utility mobile. Flight test.	
***	***	***	***	***	***	***	
123.075-123.575 (US32) (US33)	G, NG.	123.075- 123.575	AERONAUTICAL MOBILE.	Aeronautical. Aircraft.	123.1 123.15 123.2 123.25 123.3 123.35 123.4 123.45 123.5 123.55	Aeronautical search and rescue mobile. Flight test. Do. Flight test; aviation instructional. Flight test. Do. Do. Flight test; aviation instructional. Flight test.	
***	***	***	***	***	***	***	

2. In § 87.183 the frequency 121.95 Mc/s in paragraphs (h) and (i) is deleted and paragraphs (f) (4) and (g) are amended to read as follows:

§ 87.183 Frequencies available.

(f) * * *

(4) In connection with search and rescue operations, to provide a common channel for aircraft (either civil or military) not equipped to transmit on 123.1

Mc/s. This includes communications between aircraft, and between aircraft and ground stations. Stations having the capability should change to 123.1 Mc/s as soon as practicable.

(g) 123.1 Megacycles: This frequency may be used by aircraft for air-to-air communications and air-to-ground communications with aeronautical search and rescue mobile stations when engaged in search and rescue operations.

3. Paragraph (a) of § 87.31 is amended to read as follows:

§ 87.331 Frequencies available.

(a) The following frequencies are available for assignment to ground and aircraft flight test stations.

3281 kc/s ¹	123.3 Mc/s ²
121.95 Mc/s ²	123.4 Mc/s
123.2 Mc/s	123.5 Mc/s ²

¹ When A3A, A3H, or A3J emission is used, the assigned frequency will be 3282.5 kc/s (3281 kc/s carrier frequency).

² Available for assignment to ground and aircraft instructional stations on the basis that interference is not caused to flight test stations.

³ The Commission, as a matter of policy, will attempt to maintain a 1 mile separation between transmitters on 121.95 Mc/s and adjacent channel receivers. It would be helpful, therefore, if applicants for authority to use 121.95 Mc/s would coordinate their proposal with the appropriate FAA regional office prior to submitting the application. A statement of the coordination effected should accompany the application.

4. Paragraph (a) of § 87.341 is amended to read as follows:

§ 87.341 Frequencies available.

(a) The frequencies 123.3 and 123.5 Mc/s are available for assignment to ground and aircraft instructional stations on the basis that interference is not caused to flight test stations. Normally, one frequency will be assigned to each station at a fixed location; mobile stations will be assigned both of these frequencies.

§ 87.401 [Amended]

5. In paragraphs (a) and (c) of § 87.401 the frequency 121.95 Mc/s is deleted.

§ 87.431 [Amended]

6. In § 87.431 the frequency 121.95 Mc/s is deleted.

7. Paragraph (a) of § 87.441 is amended to read as follows:

§ 87.441 Frequencies available.

(a) The frequency 123.1 megacycles is available for use by aeronautical search and rescue mobile stations.

NOTE: Prior to Jan. 1, 1969, the primary frequency for aeronautical search and rescue mobile operations is 121.6 Mc/s.

[F.R. Doc. 68-11533; Filed, Sept. 20, 1968; 8:49 a.m.]

[FCC 68-940]

PART 87—AVIATION SERVICES

Order Regarding Security Control of Air Traffic and Air Navigation Aids

In the matter of amendment of §§ 87.161, 87.163, and 87.165 of the Commission's rules and regulations to provide for the security control of air traffic and air navigation aids.

1. The Commission has before it for consideration the amendment of §§ 87.161, 87.163, and 87.165 of its rules and regulations concerning the National Defense responsibilities of stations in the Aviation Radio Services.

2. Pursuant to Executive Order 10312 and 606(c) of the Communications Act of 1934, as amended, the Commission cooperated in the development of a plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA). This plan superseded the SCATER plan of May 7, 1957, which is currently referred to in § 87.163 of the rules.

3. The SCATANA plan was developed in cooperation with the Department of Defense and the Federal Aviation Agency (now the Federal Aviation Administration). These two agencies were acting, respectively, under the National Security Act of 1947, as amended, and the Federal Aviation Act of 1958.

4. The purpose of the SCATANA plan is to establish the responsibilities, procedures, and general instructions for the security control of civil and military air traffic and air navigation aids during a Defense Emergency/Air Defense Emergency in order to insure the most effective utilization of airspace by military and civil aircraft.

5. The SCATANA plan describes actions to be taken to effect control of all VOR, VORTAC, TACAN, DECCA, and SHORAN stations licensed by the Commission. Other types of radionavigation stations licensed by the Commission are unaffected by the SCATANA plan.

6. As a direct result of the promulgation of the SCATANA plan and pursuant to its planning responsibilities under Executive Order 10312, the Commission has developed a Detailed Operational Plan for the security control of specified non-Federal air navigation aids. This detailed plan describes the responsibilities of NORAD Region Commanders, Air Route Traffic Control Centers of the FAA and the licensees of the above described radionavigation stations during Defense Emergency/Air Defense Emergency. The Appendix below sets forth the rule amendments to implement the SCATANA plan with respect to Commission licensees.

7. Since the prompt amendment of §§ 87.161, 87.163, and 87.165 of the rules and regulations is necessary for purposes of national defense, compliance with the notice, public procedure and effective date requirements of 5 U.S.C., section 553 would be impracticable.

8. Authority for the adoption of the amendments herein is contained in Executive Order 10312 and 4(l), 303(r), and

606(c) of the Communications Act of 1934, as amended;

It is ordered, That effective September 27, 1968, §§ 87.161, 87.163, and 87.165 of the Commission's rules and regulations are amended as set forth below.

(Secs. 4, 303, 606, 48 Stat., as amended, 1066, 1082, 1104; 47 U.S.C. 154, 303, 606, and E.O. 10312)

Adopted: September 17, 1968.

Released: September 19, 1968.

FEDERAL COMMUNICATIONS

COMMISSION,¹

[SEAL] BEN F. WAPLE,

Secretary.

1. In Subpart A of Part 87, preceding § 87.161, the authority noted following the undesignated center heading "National Defense" is amended to read as follows:

AUTHORITY: §§ 87.161, 87.163, and 87.165 also issued under sec. 606, 48 Stat. 1104, as amended, 47 U.S.C. 606. Executive Order 10312, 16 F.R. 12452.

2. Section 87.161 is amended to read as follows:

§ 87.161 Scope and objective.

Sections 87.161, 87.163, and 87.165 are for the purpose of providing for continued radio service and operation of facilities to the extent necessary for the safety or control of friendly aircraft during periods of air attack or imminent threat thereof or as otherwise specified in these sections. All licensees in the Aviation Services shall comply with reasonable requests for action by the Federal Aviation Agency Air Route Traffic Control Centers within the scope of routine tests, periods of international tension and national emergency conditions calling for the implementation of appropriate security measures or the implementation of SCATANA.

3. Section 87.163 is amended to read as follows:

§ 87.163 Security Control of Air Traffic and Air Navigation Aids (SCATANA).

A Plan for the Security Control of Air Traffic and Air Navigational Aids has been promulgated in furtherance of the National Security Act of 1947, as amended, the Federal Aviation Act of 1958, the Communications Act of 1934, as amended, and Executive Order 10312. This plan defines the responsibilities of the Federal Communications Commission for the security control of accurate non-Federal air navigation aids. SCATANA applies to radio navigation stations authorized by the Commission as follows:

(a) Upon receipt of notification from a Federal Aviation Administration Air Route Traffic Control Center (ARTCC) that an air defense emergency exists, or is imminent, each licensee of a radio range (VOR), VORTAC, TACAN, or DECCA station shall comply with the direction of the ARTCC with regard to beginning or terminating transmissions by the station.

¹ Commissioners Bartley and Cox absent.

(b) Basic instructions concerning participation by Commission licensees in the SCATANA PLAN will be issued by the Federal Communications Commission.

(c) Licensees of aeronautical radionavigation stations of the types specified in paragraph (a) of this section, may be requested by an ARTCC to participate in SCATANA tests. If such licensees elect to participate, testing procedures shall be in accordance with instructions issued by the Commission. However, the services of such radionavigation stations shall not be interrupted as a part of any SCATANA test.

4. The headnote of § 87.165 is amended to read as follows:

§ 87.165 Communications.

* * * * *
[F.R. Doc. 68-11534; Filed, Sept. 20, 1968; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Alamosa National Wildlife Refuge, Colo.

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

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

COLORADO

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of rabbits on the Alamosa National Wildlife Refuge, Colo., is permitted from October 26, through November 27, 1968, and from December 14, 1968, through January 5, 1969, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 2,805 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits subject to the following special conditions:

- (1) Dogs—Not to exceed two dogs per hunter may be used in the hunting of rabbits.
- (2) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.
- (3) Hunting with rifles and hand guns is prohibited.

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 through January 5, 1969.

CHARLES R. BRYANT,
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

SEPTEMBER 9, 1968.

[F.R. Doc. 68-11490; Filed, Sept. 20, 1968; 8:46 a.m.]

PART 32—HUNTING

Monte Vista National Wildlife Refuge, Colo.

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

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

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of rabbits on the Monte Vista National Wildlife Refuge, Colo., is permitted from October 26, through November 27, 1968, and from December 14, 1968, through January 5, 1969, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 5,314 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits subject to the following special conditions:

(1) Dogs—Not to exceed two dogs per hunter may be used in the hunting of rabbits.

(2) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(3) Hunting with rifles and hand guns is prohibited.

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 through January 5, 1969.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

SEPTEMBER 9, 1968.

[F.R. Doc. 68-11491; Filed, Sept. 20, 1968; 8:46 a.m.]

PART 32—HUNTING

Kirwin National Wildlife Refuge, Kans.

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

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

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Public hunting of pheasants, quail, cottontail rabbits, and fox squirrels on

the Kirwin National Wildlife Refuge, Kans., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,300 acres, is delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, quail, cottontail rabbits, and fox squirrel subject to the following special conditions:

(1) The open season for hunting pheasants on the refuge extends from November 9, through December 8, 1968, inclusive, and from December 21, through December 29, 1968, inclusive.

(2) The open season for hunting quail on the refuge extends from November 16, 1968, through January 12, 1969, inclusive.

(3) The open season for hunting cottontail rabbits and fox squirrel on the refuge shall be only on those days during the open season for the hunting of pheasants and quail.

(4) Shotguns and bow and arrows are legal weapons. Rifles or handguns will not be permitted.

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 through January 12, 1969.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kans.

SEPTEMBER 9, 1968.

[F.R. Doc. 68-11492; Filed, Sept. 20, 1968; 8:46 a.m.]

PART 32—HUNTING

Quivira National Wildlife Refuge, Kans.

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

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

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked pheasants, bobwhite, squirrel, rabbits, and crows on the Quivira National Wildlife Refuge, Kans., is permitted only in the areas open to waterfowl hunting. These areas, comprising 7,030 acres are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of ring-necked pheasants, bobwhite, squirrel, rabbits, and crows subject to the following special conditions:

(1) The use of rifles is prohibited for taking squirrel, rabbits, and crows.

(2) The hunting of any species after sunset is prohibited.

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 through January 12, 1969.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kans.

[F.R. Doc. 68-11493; Filed, Sept. 20, 1968; 8:46 a.m.]

PART 32—HUNTING

Washita National Wildlife Refuge, Okla.

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

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

OKLAHOMA

WASHITA NATIONAL WILDLIFE REFUGE

The public hunting of quail and cottontail rabbits on the Washita National Wildlife Refuge, Okla., is permitted only on the areas designated by signs as open to hunting. This open area, comprising 2,005 acres, is delineated on maps available at refuge headquarters, Butler, Okla., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Upland game hunting shall be in accordance with all applicable State regulations governing the hunting of quail and cottontail rabbits subject to the following special conditions:

(1) The open season for quail hunting on the refuge extends from November 20, 1968, through January 15, 1969, inclusive.

(2) The open season for cottontail rabbit hunting on the refuge extends from November 20, 1968, through January 15, 1969, inclusive. Hunting will be permitted only on Mondays, Thursdays, Saturdays and national holidays.

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 through January 15, 1969.

LEMOYNE B. MARLATT,
Refuge Manager, Washita National Wildlife Refuge, Butler, Okla.

AUGUST 29, 1968.

[F.R. Doc. 68-11495; Filed, Sept. 20, 1968; 8:46 a.m.]

PART 32—HUNTING

Havasu Lake National Wildlife Refuge, Ariz.

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

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

ARIZONA

HAVASU LAKE NATIONAL WILDLIFE REFUGE

Public hunting of bighorn sheep on the Havasu Lake National Wildlife Refuge, Ariz., is permitted from December 7, through December 22, 1968, inclusive, but only in the Arizona portion designated as open to hunting. This open area, comprising 18,600 acres, is delineated on maps available at refuge headquarters, Needles, Calif., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of bighorn sheep subject to the following special condition:

(1) Hunting is prohibited within one-fourth mile of an occupied dwelling or concession operation.

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 through December 22, 1968.

BLAYNE D. GRAVES,
Refuge Manager, Havasu Lake
National Wildlife Refuge,
Needles, Calif.

SEPTEMBER 4, 1968.

[F.R. Doc. 68-11489; Filed, Sept. 20, 1968;
8:46 a.m.]

PART 32—HUNTING

Salt Plains National Wildlife Refuge,
Okla.

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

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

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Salt Plains National Wildlife Refuge, Okla., but only on the area designated by signs as open to hunting. This open area, comprising 1,681 acres, is delineated on maps available at refuge headquarters, Jet, Okla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Participants are to be selected on the basis of a special drawing, and applications are to be sub-

mitted to the Oklahoma Department of Wildlife Conservation, 1801 North Lincoln, Oklahoma City, Okla. 73105. Application may be made by letter, and must contain the applicant's name, address, and Oklahoma deer hunting license number. Application for bow hunting may be made between September 1, and September 30, 1968. Application for gun hunting may be made between September 15, and October 15, 1968. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The bow hunting season is October 26 and 27, November 2, 3, 9, and 10, 1968.

(2) The gun hunting season is November 23, 24, and 30, and December 1, 1968.

(3) Hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office before leaving the area.

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 through December 1, 1968.

FRED L. BOLWAHNN,
Salt Plains National Wildlife
Refuge, Jet, Okla.

SEPTEMBER 9, 1968.

[F.R. Doc. 68-11494; Filed, Sept. 20, 1968;
8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 147]

INTEREST EQUALIZATION TAX

Exemption for Prior American Ownership and Compliance; Withholding Procedures

Correction

In F.R. Doc. 68-11323 appearing at page 13031 of the issue for Saturday, September 14, 1968, in § 147.5-2(d)(3), sixth line, following the word "corporation" insert "convertible into the stock of the corporation".

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1033]

[Docket No. AO 166-A39]

MILK IN GREATER CINCINNATI 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 Parlor N, Sheraton-Gibson Hotel, 421 Walnut Street, Cincinnati, Ohio 45201, beginning at 10 a.m. local time, on September 25, 1968, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Cincinnati 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 Cincinnati Milk Sales Association, Inc. and Cooperative Pure Milk Association, Inc.:

Proposal No. 1. Amend § 1033.51(a), to reduce the stated Class I price differential from \$1.34 to \$1.30.

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, Charles T. McCleery, 519 Main Street, Cincinnati, Ohio 45201, 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 September 17, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-11511; Filed, Sept. 20, 1968; 8:47 a.m.]

[7 CFR Parts 1062, 1067, 1102]

[Docket Nos. AO-10-A37, AO-10-A39, AO-222-A23, AO-237-A15-R03]

MILK IN ST. LOUIS, MO., OZARKS AND FORT SMITH MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders (Partial)

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 St. Louis, Mo., January 24, 1967, pursuant to notice issued January 13, 1967 (32 F.R. 613), and February 28, 1967, through March 3, 1967, pursuant to notice issued January 24, 1967 (32 F.R. 1042). The hearing commencing February 28, 1967, also reopened the joint hearing on the Fort Smith, Ark., and Ozarks milk orders held November 2, 1966, at Fayetteville, Ark. (Docket No. AO-237-A15); such reopening was for the limited purpose of further consideration of including Baxter, Carroll, Fulton, IZard, Madison, Newton, Searcy, and Stone Counties, Ark., in the proposed merged Ozarks-St. Louis marketing area.

The hearing commencing on February 28, 1967, with respect to the St. Louis milk order (Docket No. AO-10-A39) and the Ozarks milk order (Docket No. AO-222-A23) has been reopened on three separate occasions as follows:

(1) At a hearing concerning filled milk held February 19, 1968, at Memphis, Tenn.;

(2) At a hearing concerning Class I prices held February 23, 1968, at Memphis, Tenn.; and

(3) At a hearing on a proposal to increase the Class I price by 24 cents by

removing references to the Chicago supply-demand adjustor. This hearing was held June 25, 1968, at Minneapolis, Minn.

The issues of the hearing begun at Memphis on February 19, 1968, are reserved for another decision. The issues of the record of February 23, 1968, were dealt with in a decision issued April 15, 1968 (33 F.R. 6016). The issues of the hearing held June 25, 1968, were dealt with in a decision issued July 24, 1968 (33 F.R. 10744).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator on March 18, 1968 (33 F.R. 4808; F.R. Doc. 68-3426) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

A revised recommended decision was issued August 27, 1968 (33 F.R. 12232).

The material issues, findings and conclusions, rulings and general findings of the revised recommended decision are hereby approved and adopted and are set forth in full herein subject to the following revisions:

1. In the findings on issue No. 1, *Marketing area*, a new paragraph is inserted after the 45th paragraph.

2. In the findings on issue No. 2, *Milk to be priced and pooled*, the 37th paragraph is modified.

3. In the findings on issue No. 3, *Classification and allocation*, the first and 12th paragraphs are modified.

4. Under the subtitle *Receipts from handler pool markets*, two new paragraphs are inserted after the 15th paragraph.

5. In the findings on issue No. 4(a), *Differentials over basic formula price*, the first 9 paragraphs are deleted and 16 new paragraphs are substituted therefor. Also, the 16th paragraph is deleted.

6. In the findings on issue No. 5, *Miscellaneous and administrative changes*, two new paragraphs are inserted after the sixth paragraph.

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

1. Merging of the Ozarks and St. Louis marketing areas, and expansion of territory now regulated by the two orders to include additional territory to be added to either the Ozarks or St. Louis marketing areas or to the merged marketing area.

2. Milk to be priced and pooled.

3. Classification and allocation.

4. Class I price and location adjustments.

(a) Differentials over basic formula price.

(b) Supply-demand adjustor.

(c) Location adjustments.

5. Miscellaneous and administrative changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearings and the records thereof.

1. *Marketing area.* Order No. 62 regulating the handling of milk in the St. Louis, Mo., marketing area and order No. 67 regulating the handling of milk in the Ozarks marketing area should be merged into a single regulation. St. Charles and Warren Counties, Mo., plus the two marketing areas as presently constituted, should be included in the merged marketing area. The order thus created should be designated as the St. Louis-Ozarks marketing area.

Two kinds of marketing area proposals were made: (1) A proposal to merge the St. Louis marketing area with the Missouri part of the Ozarks marketing area; and (2) proposals to add presently unregulated areas to either the existing marketing area or to the areas as proposed to be merged.

The proposal to merge the St. Louis and Ozarks marketing areas was made by three cooperative associations, each of which has membership on both markets. Their proposal would also add territory not now regulated, Texas and Phelps Counties in Missouri and that part of Pulaski County, Mo., not now in the Ozarks marketing area. The proposal did not include the four Arkansas counties of Benton, Boone, Marion, and Washington which are now part of the Ozarks marketing area.

Other parties proposed extensive additions to the presently regulated areas, including areas adjoining the northern and southern limits of the present St. Louis marketing area as well as areas between the St. Louis and Ozarks areas, and counties in northern Arkansas. All of the proposals dealing with a merged marketing area involved a continuous geographic area extending from St. Clair County, Ill., to southwest Missouri and in some proposals into Arkansas.

In the area adopted in these findings and conclusions, however, the marketing area would not be geographically continuous. There would be unregulated territory located between the present St. Louis and Ozarks marketing areas. Although sales areas of handlers under the two orders are contiguous or to some degree overlap in intervening areas, there is not sufficient basis in the record for extending regulation to such territory.

The merging of the two marketing areas under one regulation is desirable to foster efficient and orderly marketing of the milk of producers under both orders. A very high proportion of the producer milk now regulated under the two orders is marketed by a single marketing agency of producers. The Sloma Marketing Agency, Inc., consisting of three cooperatives, Producers Creamery Co., Sanitary Milk Producers, and Square Deal Milk Producers, is the principal marketing agency in both markets. The membership of these three cooperatives comprises approximately 90 percent of the producers on the St. Louis and Ozarks markets.

Producers in the two separate markets have common marketing problems. In several production areas, producers of both markets are intermingled and the milk of dairy farmers in such common production areas may be directed into one market or the other, depending on needs and economic handling of milk. Shifting of groups of producers from one market to another, or between plants in the same market is arranged by the three cooperative associations.

There is a need for the cooperative associations to coordinate their marketing activities in the two markets. For this purpose, operation under a single order will facilitate their marketing activities, and improve the economic handling of producers' milk. The cooperative organizations also operate a number of supply plants in both markets, or arrange for the marketing of milk of plants of proprietary operators under marketing contracts. From time to time, the cooperative marketing associations have shifted one or more plants from one regulation to the other depending upon the needs of the two markets. The merging of the two orders will also facilitate the handling of reserve milk of these markets, particularly where the reserve milk of the separate markets has been handled in the same facilities.

The combined marketing area thus constitutes a practical marketing area which will serve to promote the orderly marketing of producer milk now priced under the two orders.

The merging of present marketing areas would not result in regulation of any additional milk or handlers.

The cooperatives proposing a merger of the two orders omitted in their proposal the four Arkansas counties which are now part of the Ozarks marketing area, but did not give reasons for such omission. The findings and conclusions with respect to these four counties are included with those relating to other counties in Arkansas.

A number of proposals were made, however, to increase the regulated territory. While all of the proposed new territory generally includes extension of route sales by presently regulated handlers, most new areas proposed also include sales areas of handlers presently not regulated. In instances where new handlers would be brought under regulation if the area were expanded, the evidence does not justify the application of regulation to such additional areas.

One of these proposals was that of the cooperative associations which was designed to join the two existing marketing areas by including the intervening counties of Pulaski, Phelps, and Texas. Part of Pulaski County already is in the Ozarks marketing area which includes Fort Leonard Wood Military Reservation. A very large part of the distribution of the additional area in these counties is by Ozarks handlers; for the three counties together about 80 percent. The remainder of the sales are divided between St. Louis handlers and an unregulated handler with a plant located at Jefferson City, Mo.

It is very likely that the handler at Jefferson City would be regulated by inclusion of both Phelps and Pulaski Counties, which contain the principal population concentration in the three-county area. The presence of unregulated milk sold in these counties is not now a significant factor detracting from orderly marketing conditions. Sales by this handler were reported to amount to about 6 percent of total sales in Phelps County and 5 percent of total sales in Pulaski County outside the military reservation. Proponent cooperative associations did not claim that such sales constitute a disturbing factor. They based their request for including the counties instead on the desirability of a continuous marketing area, and overlapping of sales of St. Louis and Ozarks handlers. Neither of these reasons is compelling, and thus cannot be sufficient for bringing about regulation of a handler not now regulated. Other areas where this handler has sales likewise are not included in the marketing area as adopted herein.

The only reason given for including Texas County was to accommodate the pricing of producer milk diverted from a pool plant at Cabool, in that county. This has no direct relation to Class I disposition in the county and is not a sufficient basis for regulation. The objective as to pricing diverted milk can be accomplished by other means.

The proposal to regulate Texas, Phelps, and Pulaski Counties, therefore, is denied, except that Fort Leonard Wood, presently part of the Ozarks marketing area, should be included under the merged order.

Another proposal made by a handler would have included other additional area not now regulated. Besides Pulaski, Phelps, and Texas Counties, the handler included in his proposal the 16 Missouri counties of Audrain, Boone, Callaway, Camden, Cole, Cooper, Gasconade, Howard, Maries, Miller, Moniteau, Montgomery, Morgan, Osage, St. Charles, and Warren.

The only counties of this group which should be included in the marketing area are St. Charles and Warren Counties. In other areas proposed, there is not sufficient basis for bringing under regulation presently unregulated handlers.

The principal unregulated handler in this proposed territory operates a milk plant at Jefferson City in Cole County. Four other unregulated handlers, each having a single plant, are located at Jefferson City, Columbia, Fulton, and Moberly, Mo. The larger of the two unregulated handlers located at Jefferson City has sales in 14 of the 16 counties.

Unregulated handlers have the majority of Class I sales in Cole, Miller, and Osage Counties and the largest proportion of Class I sales in Callaway County. Kansas City handlers have the majority of the sales in Howard, Cooper, Morgan, and Moniteau Counties. A handler regulated by the Des Moines, Iowa, order has the largest proportion of the Class I sales in Boone County.

St. Louis and Ozarks handlers have the majority of Class I sales in only seven of the 16 counties: Audrain, Camden, Maries, Gasconade, Montgomery, St. Charles, and Warren. Whether such sales represent a significant part of such handlers' business was not shown. St. Louis-Ozarks handlers have no Class I sales in Boone, Cooper, Howard, and Moniteau Counties.

In the five of the seven counties where St. Louis and Ozarks regulated handlers have a majority of the Class I sales, the principal unregulated handler located at Jefferson City in Cole County sells approximately 17½ percent of his total Class I sales. Thus if these five counties were added to the marketing area this unregulated handler at Jefferson City would definitely come under regulation of the order.

The handler making the proposal to add the 16 Missouri counties, as well as Phelps, Pulaski, and Texas Counties, argued that the handlers presently unregulated in the 16-county area have an advantage over regulated handlers in that they are not required to pay for milk according to class utilization. The proponent handler asserted that the principal unregulated handler in this area pays farmers a price approximating the St. Louis uniform price at his Jefferson City location. This was verified by the unregulated handler in a statement that his pay prices are 24 cents under the St. Louis City uniform price for October through April, and 28 cents under in other months. Such prices are paid without regard to utilization.

The principal supply for the unregulated handler is furnished by one of the cooperative associations who was a proponent of the merged order. The cooperative association did not state any position as to whether the handler in question should be regulated. The association is receiving for its milk delivered to this handler approximately the same returns as if the handler were regulated.

It is concluded the record evidence is not sufficient to sustain regulation of the handlers in the proposed new area. Particularly in view of failure of proponent handlers to provide complete data as to interests of presently regulated handlers in the proposed area, regulation based on this record would not be justified.

For these reasons all counties proposed by the handler for regulation are denied, except St. Charles and Warren counties. These two counties are entirely served by St. Louis or Ozarks handlers and thus do not involve handlers not now regulated. These two counties should be added to the regulated territory in the interest of including, insofar as justifiable, areas depending primarily on regulated handlers for fluid milk supplies. This will serve to stabilize and preserve orderly marketing conditions for producer milk.

Another proposal by a St. Louis handler would add other counties in northeast Missouri. Besides the counties already considered, the handler proposed Lewis, Marion, Monroe, Ralls, Pike, and Lincoln. The information presented by proponent as to sales by regulated or unregulated

handlers in these counties was not sufficiently definitive to judge whether regulation should apply. Sales by regulated handlers in the counties, as presented do not allow any analysis as to source, since there is no breakdown as to sales of individual handlers or as to what extent milk sold there is regulated under various orders. Further, there are unregulated handlers in the proposed counties, who presumably would become regulated if the counties were included in the marketing area. Certain other unregulated handlers may have fringe distribution in the area, but the information provided does not specify the extent of their sales in the proposed territory, and thus no determination as to whether they would be regulated can be made. In view of the lack of evidence in these respects, and as to the number of farmers who might supply handlers in the proposed area, there is insufficient basis for extending regulation to these counties. The proposal therefore is denied.

Other counties in southeast Missouri were proposed by the same St. Louis handler. These were Butler, Carter, Madison, Ripley, Stoddard, and Wayne Counties. In this case also the data presented by the proponent handler does not allow analysis of the source of milk sold in these counties. The data merely present an estimated division on a percentage basis between regulated and unregulated sales in each county. The sales of regulated milk in each county were assigned by proponent to a group of 14 St. Louis, Ozarks, and other handlers without any distinction as to which of these handlers had sales in a particular county. The presumed sales of the unregulated handlers also made no distinction as to which of nine different handlers had sales in each county.

The data presented by the proponent handler as to unregulated milk sold in these counties is in direct conflict with other evidence in the record to the effect that none of the unregulated handlers listed by proponent have sales in southeast Missouri. These counties are well beyond the range of sales areas of the unregulated handlers listed by proponent. The plants of two of such unregulated handlers are located in Jefferson City and the others at points more distant from southeast Missouri. It is concluded that the information provided by proponent is not sufficient basis for regulation of the area he proposed. Certain of these counties, however, were also included in the proposal of the principal unregulated handler whose plant is at Jefferson City.

The unregulated handler at Jefferson City proposed the inclusion of the Missouri counties of Carter, Dent, Iron, Madison, Reynolds, Shannon, Texas, and Wayne. The unregulated handler's sole purpose in making this proposal was to suggest a geographical connection between the St. Louis and Ozarks marketing areas, which did not include any of this unregulated handler's sales. His explanation of this proposed area was that if a geographical connection were needed to accomplish the merger that this could

be done through counties that did not include any of his sales. The information provided by proponent, however, does not give any basis for regulation in these proposed counties. He did not claim that disorderly marketing conditions exist in the area he proposed. He acknowledged that he knew of no sales by unregulated handlers in the proposed counties.

It is concluded that the evidence does not justify the regulation of any of the counties in southeast Missouri requested by these two proponents.

Another proposal concerned the four Arkansas counties which are now part of the Ozarks marketing area and eight other Arkansas counties proposed to be added to the proposed merged area of the Ozarks and St. Louis orders. This proposal was made by an Ozarks handler whose plant is at Springfield, Mo. Sales are made by this handler in all of the proposed Arkansas counties including those now in the marketing area. Another Springfield, Mo., handler also has sales in all of the four Arkansas counties now in the marketing area and in six of the other counties proposed to be added.

Presently, the Ozarks marketing area includes the Arkansas counties of Benton, Boone, Marion, and Washington. The handler proposed to add the counties of Baxter, Carroll, Fulton, Izard, Madison, Newton, Searcy, and Stone.

The four counties, Benton, Boone, Marion, and Washington presently in the Ozarks marketing area, should be a part of the merged marketing area.

The data furnished by proponents give a breakdown of the source of the milk sales in each county. In the four Arkansas counties now in the marketing area, the two Springfield, Mo., handlers have about 78 percent of Class I sales in Benton County, 50 percent in Boone County, 85 percent in Marion County, and 60 percent in Washington County. It must be concluded, therefore, that these counties are substantially supplied by handlers who would be regulated by the proposed merged order.

A minority of the Class I sales in these counties is supplied by handlers regulated under the Central Arkansas milk order, Central Arkansas handlers have no sales in Benton County, but have about 25 percent of the sales in Boone County, 15 percent of the sales in Marion County, and a minor percentage in Washington County.

There is a handler located in Rogers, Benton County with sales only in this county and there are also two handlers located at Fayetteville, Ark., in Washington County which have sales in Benton, Boone, and Washington Counties. Their sales constitute 20 percent of the sales in Benton, 5 percent of the sales in Boone, and 36 percent of the sales in Washington County. In one of these counties, Boone County, a producer-handler located at Harrison in Boone County provides 20 percent of the county's sales.

From the preceding information it is apparent that the four counties of Benton, Boone, Marion, and Washington are more substantially associated with milk handling in the present Ozarks marketing area than with the handling of

milk under any other order. This situation supports continuing these four counties in the Ozarks or the merged marketing area, although these counties were omitted in the proposal made by the three cooperative associations to merge the St. Louis and Ozark orders. The three cooperative associations did not offer any evidence, however, that would support the deletion of these four counties and agreed that they should be included if they were served predominantly by Ozarks handlers. If these counties were deleted from the marketing area, at least two handlers there would not be regulated. Thus, deletion of the counties would expand the area of competition of regulated handlers and unregulated handlers. This condition could result in inequitable situations for regulated handlers as compared to unregulated handlers with sales in the same areas and potentially could lead to disorderly marketing conditions. These counties, therefore, should continue to be part of the regulated area.

The other Arkansas counties proposed for inclusion in the marketing area should not be included at this time. Five of these counties, Baxter, Carroll, Madison, Newton, and Searcy, were recommended for inclusion in the recommended decision. After consideration of evidence in the light of exceptions it is concluded that inclusion, at this time, is not justified.

Milk Producers, Inc., representing dairy farmers in the Central Arkansas and Fort Smith markets, claim in their exceptions that these counties are substantially associated with the Arkansas markets. The association asked that no action be taken on these counties until there is opportunity for a further hearing to consider whether these counties should be included under the one or other of the Arkansas markets. Inasmuch as practically all the milk sold in these counties is presently regulated under either the Ozarks order or the Central Arkansas order, the consideration of these counties does not involve the question of regulation of any additional handler.

With respect to the three other Arkansas counties, Fulton, Izard, and Stone, the proponent handler qualified his support, stating that he did not intend that any marketing area expansion should bring under regulation a presently unregulated handler at Batesville, Ark. Inasmuch as the handler at Batesville, sells in each of these three counties, he would be likely to become regulated if any of them were included. The handler at Batesville does not have sales in any of the other proposed counties. In view of the qualifications stated by the proponent and the record evidence, it is concluded that these three counties should not be brought under regulation at this time.

A proposal was contained in the notice for the hearing held at Fayetteville, Ark., November 2, 1966, which would have deleted Benton, Boone, Marion, and Washington Counties, Ark., from the Ozarks marketing area and transferred Benton, Boone, and Washington Coun-

ties to the Fort Smith marketing area. This proposal was not supported at that hearing and, accordingly, in a decision issued June 28, 1967 (32 F.R. 9693) the proposal was not adopted. In view of the preceding findings in this decision, deletion of the four counties from the Ozarks marketing area would not be in the interest of orderly marketing.

It is concluded that all of the milk and milk products disposed of in the defined marketing area (to be designated the St. Louis-Ozarks marketing area) is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products. The marketing area is comprised of portions of three states. Milk produced in Iowa, Wisconsin, and Illinois, is marketed in portions of the marketing area in Missouri, and milk produced in Missouri is marketed in portions of the marketing area in Arkansas.

The recommended order adopts in principle many of the provisions of the present St. Louis Order No. 62. Substantive changes from the St. Louis order provisions are explained in the findings and conclusions herein.

To accomplish the merger effectively and equitably, the assets in the custody of the market administrator in the administrative, marketing service, and producer-settlement funds established under the present orders No. 62 and 67 should be combined when the merger of the two orders is effective. Liabilities of such funds under the individual orders should be paid from the newly combined funds and obligations due to such funds under the separate orders should be paid to the combined funds under the merged order. To distribute the funds under either or both orders and accumulate the necessary reserve would entail unnecessary administrative expense with no advantage to either handlers or producers. Administrative efficiency and equity among handlers and producers can best be served by merging the funds of the two orders.

Any funds retained in the producer-settlement funds of the St. Louis and Ozarks orders pursuant to the seasonal incentive plans should be paid out under the corresponding provisions of the proposed St. Louis-Ozarks order. The applicable monthly rates and the deduction and payment under the seasonal incentive plans of the St. Louis, Ozarks and the proposed St. Louis-Ozarks orders are the same. The proposed order will therefore carry out the existing plans.

When the merger is effective, Part 1067 will be superseded by such action.

2. *Milk to be priced and pooled.* The milk to be priced and pooled under the proposed order is milk eligible for fluid consumption from sources which constitute the regular and dependable supply for the market.

The sanitary requirements relative to the production processing and sale of fluid milk are substantially the same throughout the proposed marketing area. Throughout the area, fluid milk products sold under a Grade A label must be approved by health authorities who

are governed by the health ordinances and practices patterned after those prescribed by the U.S. Public Health Service Ordinance and Code. While the health ordinance of the city of St. Louis, Mo., requires additional standards, there is reciprocity of approval between the St. Louis health department and the Springfield, Mo., health department. Thus, between these two major cities of the marketing areas to be combined, a relationship of health approval exists so that the milk is interchangeable. From time to time milk supplies are shifted from the Ozarks to the St. Louis market without impediment. Further, the extensive movement of milk both in the form of packaged and bulk fluid milk products within the present marketing areas and from these areas into areas proposed to be added demonstrates the general acceptability throughout the proposed St. Louis-Ozarks marketing area of milk under the various sanitary jurisdictions.

From time to time a handler regulated under this order may receive milk from sources outside of the area under the jurisdiction of health authorities in the marketing area. Accordingly, it should be provided that milk approved as Grade A by any duly constituted health authority shall be eligible to be received as producer milk.

Certain definitions are needed in the order to identify the milk to be priced and pooled. The definitions contained in the proposed merged order follow the usual pattern of Federal orders, including definitions of "producer," "handler," and the various types of plants handling milk in the market.

There are two principal types of plant operations involved in the handling of the milk supply for the market, the first being the type of plant which processes, packages, and from which distribution is made on routes, and the second type being a supply plant which primarily serves to assemble milk for shipment to distributing plants or to handle the reserve milk for the market.

The definition of "distributing plant," applicable to plants with route disposition in the marketing area, would be essentially the same in application as the terms "city plant" and "approved plant" in the St. Louis and Ozarks order, respectively. Such plants would be approved by a duly constituted health authority for the processing or packaging of Grade A milk. A distributing plant would be either regulated or unregulated, depending upon whether it meets the requirements for pool distributing plants.

The pooling requirements for distributing plants would be much the same as in the present orders. Inasmuch as the new order would regulate the same plants as are now regulated under the two orders, and it is not anticipated that additional distributing plants would be brought under regulation, the existing pool requirements would be generally appropriate. These requirements are primarily that route disposition of the plant equal at least 50 percent of receipts of Grade A fluid milk products from various

sources, with route disposition in the marketing area equal to at least 10 percent of such receipts or 7,000 pounds per day.

One change, however, would include, for meeting the 50 percent requirement, disposition of packaged fluid milk products to other pool distributing plants. Since such interplant transfer would be part of the basis for pooling the transferor plant, the quantity of packaged fluid products would not be credited in the transferee plant towards meeting the 50 percent requirement. The pooling requirement with respect to disposition in the marketing area, however, should be in terms of deliveries to retail or wholesale outlets, not to plants, since there is no certainty as to whether a packaged transfer is disposed of by the second plant in the marketing area. For the latter reason the definition of route is modified from the recommended decision to exclude disposition to another plant. The credit for disposition of packaged fluid milk products to another pool distributing plant is included in the terms of the pool plant definition.

The existing provision of the St. Louis order that a distributing plant which qualifies as a pool plant by performance during one month would continue to be pooled during the subsequent month is retained to allow the plant operator this much notice that his plant may become unregulated. The order should further specify that milk diverted from the plant by the plant operator is included in the receipts for purposes of determination of pool plant status.

Cooperative associations, in exceptions, requested that no fluid milk product packaged in an other order plant be counted towards pool qualification of a plant distributing these packaged products in this marketing area. This is not adopted inasmuch as the effects of such a provision are not covered in the record.

It was also requested in exceptions that the definition of pool distributing plant include a plant receiving all of its milk supply from a plant regulated under another order. Such plant, then, would be a pool plant if it met the stated percentages or quantity requirements with respect to total route disposition and disposition in the marketing area.

No modification of the pool distributing plant definition is necessary. The definition includes receipts from "supply plants" and the latter term includes a shipping plant even if regulated under another order.

Thus, the purpose of the cooperative associations would be met. A distributing plant receiving its entire supply from a plant regulated under another order would be pooled if the distributing plant had at least 50 percent of such receipts disposed of as route disposition, and at least 10 percent of such receipts, or 7,000 pounds per day, as route disposition in the marketing area.

Although some of the route disposition of handlers to be regulated will extend beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to stretch the regulated area to cover all areas where

a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass the great bulk of the fluid milk sales of handlers to be regulated. All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

The definition of the supply plant also would be essentially similar to the definitions in the current orders (called a "country plant" in the St. Louis order) which apply to plants shipping to distributing plants. The new definition would be more specific with respect to receipt of milk from such plant at distributing plants. The term would include also any plant operated by a cooperative association or under contract to such association, which qualifies for pooling on the basis of deliveries of member milk to distributing plants either directly from the farm or through the cooperative plant. Other supply plants would be regulated or unregulated, depending upon whether they meet the requirements for pool plants.

The pooling requirements for supply plants in the proposed merged order would be somewhat different from the requirements in either of the existing orders. The present St. Louis and Ozarks orders establish shipping requirements in terms of a percentage of the Grade A milk received from dairy farmers at a plant. The St. Louis order also allows a cooperative to qualify a plant without meeting specific shipping requirements if 50 percent of the milk deliveries of member producers during the preceding 12 months have been shipped from farms to pool distributing plants to pool supply plants of other handlers, or transferred

from the cooperative's plant to city distributing plants.

Most of the supply plants currently pooled under the two orders are operated by cooperative associations or are under contract to cooperative associations. Under modified provisions applicable to plants operated by cooperative associations described in subsequent findings, all of these plants are expected to qualify for pooling on a basis that does not require a specified quantity of shipments from such plants to distributing plants. Thus, percentage shipping requirements are not expected to be relevant to pooling the existing supply plants.

The order should contain shipping requirements, however, which would apply to any other supply plant which supplies milk to the market. The requirement in the proposed order would be that any supply plant may qualify as a pool plant during any month, by shipping at least 50 percent of its receipts from dairy farmers to plants which qualify as pool distributing plants. Only plants at locations beyond the distance from which direct delivery from farms to distributing plants is practical would be expected to qualify on the basis of shipments from the plant. At lesser distances, qualification by shipments is impractical. With respect, however, to plants for which shipments are the only practical method of supplying the market, the 50 percent shipping requirement is reasonable and commonly used in Federal orders. It is necessary that such standard be established for plants which are to be pooled, for otherwise the returns from Class I sales in the market could be dissipated to sources which do not represent a regular supply for the market. It is reasonable to require that at least half of the milk receipts of a plant be used to supply the market if the plant is to be accorded pool plant status. Such a requirement compares with the 50 percent requirement cooperatives are expected to meet with respect to the milk of their members. It is concluded that the 50 percent shipping requirement is an appropriate standard for this purpose.

It is recognized that the pool supply plant handles a reserve supply for the market which would not be drawn upon as much during higher production months as during months of low production. It is therefore provided (as in the present St. Louis order) that such plant could continue to qualify during the months of March through August without shipments if it had qualified in each of the prior months of September through February on the basis of actual shipments. The Ozarks order contains a similar provision.

Higher supply plant shipping requirements were requested by the cooperative associations who asked for the merged order. Their proposal was that shipments of 60 percent of the Grade A receipts of the plant during the month of October, 70 percent in November, and lesser percentages in other months to distributing plants would be required.

The proposed higher requirements in October and November are not related

to any prior experience under either of the orders, nor is it known whether they would be suitable to the operation of any plants on which the market might depend for a regular supply of milk. Such requirements would mean that the entire receipts from such a plant would be unregulated and ineligible to participate in pool returns although more than half of the milk from such plant was used to supply distributing plants. In the absence of any specific data relating the proposed percentages to the operations of particular plants or to needs of the market, the proposal seems inconsistent with the principle of pricing and pooling milk which is primarily associated with the market. The proposed higher requirements for these months therefore are not adopted.

The order should allow a cooperative association to pool a supply plant without specific shipping requirements if the major function of the cooperative is to supply milk to pool distributing plants. It shall be provided that such a plant qualify for pooling if 50 percent or more of the total producer milk of member producers is delivered to pool distributing plants either directly from farms or through association plants. Qualification as a pool plant would be allowed if the association met this percentage in either the current month or on the basis of total shipments during the 12-month period ending with the current month. A similar provision was supported by cooperative associations requesting the merger of the two orders, although their proposal required delivery of 60 percent of member milk for 12 months. Their proposal would also count deliveries to supply plants as well as to distributing plants as a basis for qualification.

The proposal by the cooperatives, except for requiring 60 percent deliveries, is the same as the provision of the St. Louis order which qualifies the plant of cooperative association if during the prior 12 months 50 percent of member producer milk is delivered to pool distributing plants, either directly or through the association plant or is delivered from farms to supply plants.

The provision for pooling a cooperative association reserve plant recognizes that most producers of the market have converted to farm bulk tanks, and therefore large quantities of milk may be moved long distances from farms to city distributing plants without moving through a supply plant. In many cases, therefore, it would be inefficient to require that the milk move through a supply plant in order for the plant to be pooled. The plants operated by the cooperative associations, nevertheless, do handle the reserve milk of the market when it is not needed at the distributing plants. Therefore, they serve a purpose similar to that of plants qualifying for pooling on a shipping basis.

While direct shipment from farms to distributing plants may ordinarily be the most efficient method of handling, some milk may move through the reserve plant to distributing plants. The pool qualifications of the cooperative plant, therefore, should be based on the combined

deliveries to distributing pool plants whether through the plant or direct from members producers' farms.

An exception would need to be made if such plant qualified for pooling under another order on the basis of shipments to plants regulated under the other order. In such case, to avoid conflict with other order regulations, the plant should not be pooled under this order.

Provision that a cooperative may meet the qualification requirements either on a single-month or 12-month basis will afford flexibility to different types of operations in meeting the pooling standards. In some instances it will be possible for a cooperative to meet the requirement on a 12-month basis although in a few of the months member deliveries may fall below the required percentage. On the other hand, the single-month basis for qualification will allow a cooperative to pool a reserve plant on the first month in which it meets the percentage requirement.

A plant which qualifies for pooling on this basis in 1 month should automatically have pool status in the following month. This will, in most instances, eliminate administrative problems described in cooperatives' exceptions with respect to determination based on the current month.

The higher percentage for deliveries (60 percent) proposed by cooperative associations should not be adopted. The requirement now in the order is 50 percent. This requirement is preferable to a higher percentage for reasons similar to those relating to supply plants.

The cooperative association also proposed that a plant operated by or under contract to a cooperative association be able to qualify as a pool plant if the cooperative delivers 60 percent of the total producer milk received during the month at all pool distributing plants.

Furnishing 60 percent of the supply of all distributing plants represents a substantial supply function and identification with the market. There is a difficulty in such a pooling provision, however, since there would be no limit as to additional quantities of milk which could be pooled. If some limit applied to the quantity of reserve milk which could be associated with the plant (as suggested in cooperatives' exceptions) such limit must be essentially the same as the previously discussed pooling requirement based on delivery of 50 percent of member-producer milk to distributing plants. Thus the additional proposed pooling provision based on a combination of percentages, a percentage of distributing plants' receipts and a percentage of cooperative member milk so delivered, is not needed.

The proponents for the merged order asserted that a plant operated by or under contract to a cooperative association should be allowed to qualify as a pool plant only after meeting the requirements during every month of the preceding 12-month period. Although this provision is now in the St. Louis order it is not adopted in the proposed merged order. Such a provision would mean that while a high proportion of a cooperative's member milk is delivered to

pool distributing plants during an initial 12-month period, the cooperative would nevertheless be denied the use of its plant as a reserve pool plant. It is not clear what would be accomplished in terms of orderly marketing under such restriction on a new cooperative association. It would, in fact, during the 12-month period, deny the cooperative association a reserve pool plant while current performance might well be greater than that of other cooperative associations who under such a provision are allowed reserve pool plant status for their plants. It is not necessary to limit the pooling of a reserve plant on the basis proposed. The provisions, with respect to supply plants adopted herein, would provide sufficient identification of the plant with the market to justify pooling such plants.

Cooperative associations in the market pointed out that they are in the process of merging and consolidation. The order provision for pooling a cooperative plant should give credit for deliveries from members of the individual cooperatives prior to consolidation as well as deliveries of members of the consolidated organization which is the successor in marketing function for the individual cooperatives. Also, where months prior to effective time of the merged order are involved credit should be given for deliveries by member producers in such months.

A special provision should be made for any plant which qualifies as a pool plant under the proposed order and at the same time qualifies under another order as a fully regulated plant. The present provisions of the Ozarks and St. Louis orders, with respect to such plants, should be modified to allow a distributing plant to remain a pool plant under the proposed order until the third consecutive month in which the plant makes greater Class I disposition in the other marketing area. This will afford the handler reasonable notice that the regulation of his plant will shift from one order to another unless he adjusts his operations to prevent such a shift. To avoid possible conflict of two orders, however, the effect of this provision should be limited in case the other order does not release the plant from regulation during the first 2 months of the period in which the plant makes greater disposition in such other marketing area.

Inasmuch as other orders may have similar provisions, it is provided in this proposed order to exempt a distributing plant from full regulation which has greater disposition in this marketing area than in another Federal order marketing area where it also qualifies as a fully regulated plant and the order retains regulation under a similar provision.

The order should also exempt a supply plant which meets the pooling requirements under both this and another order if greater qualifying shipments from such plant are made during the month to plants regulated under another order than are made to plants regulated under this order. Such exemption should not apply, however, if the operator of such plant chooses to retain automatic pooling status under the St.

Louis order during the months of March through August. Since in these months the plant is qualified under this order without making any shipments currently, there is not an appropriate basis for deciding the applicable regulation only by comparing shipments to both markets.

The definition of producer-handler should be amplified to reflect modern dairy marketing practices and to make clear that the entire operation represents the personal enterprise and risk of the producer-handler.

A producer-handler may be allowed to receive supplemental milk from pool plants. The classification provisions of the order would assure that the value of such milk as Class I would be fully reflected in the market pool. The producer-handler should be able to supplement his own production with receipts of packaged milk from any plant regulated under another order. This receipt would be classified and priced under the other order. Thus, there would be assurance that such a source of milk for the producer-handler would not tend to undermine the pricing under this order.

A producer-handler may be allowed to receive nonfluid milk products, only to fortify fluid milk products for route disposition. The privilege to use nonfluid milk products would not extend to reconstitution of fluid milk products for Class I disposition. It would not be feasible to allow the producer-handler exemption to apply to a plant operation which thus uses other source milk items as a supply for Class I disposition, since this could result in a significant cost advantage compared to regulated handlers. Any plant disposing of reconstituted fluid milk products in the marketing area should be subject to the applicable order provisions relating to fully regulated or partially regulated plants. Similar consideration would apply if the plant operator reconstituted the skim milk portion of a milk substitute.

Producer-handlers should not receive milk from a cooperative association as a bulk tank handler. Other handlers are subject to full regulation with respect to such receipts, and are not given exemption if they have some own-farm production. This kind of receipt if allowed to a producer-handler is essentially a receipt of producer milk in a manner which accommodates the precise day-to-day Class I needs of the producer-handler. The associated reserve milk, however, remains in the market pool. This is a departure from the concept of a producer-handler as an independent operator responsible for producing his own supply and carrying his own reserve except for relatively minor supplemental purchases.

The definition of "route disposition" should be modified from the corresponding provision of the St. Louis order to put it in terms of disposition of fluid milk products.

The handler definition of the St. Louis and Ozarks orders are in most respects the same. The merged order, however, would modify the definition of a coopera-

tive association as a handler on bulk tank milk delivered to pool plants. Both cooperative proponents and a principal handler requested that the plant operator receiving the milk be allowed to be the handler if the cooperative and the plant operator agree on such an arrangement.

The provision now in the order recognizes that a cooperative association which operates tank truck pickup routes, or which contracts for such farm pickup, would ordinarily be the only agency having direct access to the information as to individual producer milk weights and butterfat tests. The St. Louis and Ozarks orders, therefore, provide for the cooperative association to be the responsible handler to account for the receipt of such milk from producers.

Much of the milk received by plant operators, however, is under agreement with the cooperative association that payment will be on the basis of farm bulk tank measurements taken by the cooperative or its agent, and for butterfat based on samples taken from the farm bulk tank. The proposal of the cooperatives would be based on this method of payment.

In exceptions, cooperatives requested that the order provide that the plant operator normally be the handler, and no notification be required unless the plant operator decides to purchase the milk from the cooperative on scale weights. In the latter instance the cooperative would become the handler receiving the milk from producers.

The revised provision allows the cooperatives and plant operators to work under the mutual agreements as described. It requires the plant operator to be the handler receiving milk from the producers unless he notifies the cooperative and market administrator that he intends to purchase milk of the cooperative's members on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples.

The definition of producer milk would be similar to the present provision in the St. Louis order. The limitation with respect to diversion, however, would require a greater proportion of a producer's deliveries to be made to pool plants. Diversion of a producer's milk to nonpool plants not regulated by another order would be allowable on any day in the months of March through August, and in other months for not more days of production of each producer than the number of days of his production physically received during the month at pool plants. On this basis the milk of a producer could be diverted in any month of the September-February period for about half of the month, providing the producer's milk was physically received during the month at least the same number of days at pool plants. Milk of a producer diverted beyond such limitation would not be producer milk.

This will provide a better identification of the producer as part of the reliable supply for the market than current St. Louis order provisions which allow diversion to an unregulated plant on any day

during the months of March through August and in any other month for as much as 16 days. The present provision does not require in the September-February period any specific amount of deliveries to a pool plant during the same month in which a producer's milk is diverted.

Also the current provision with respect to diversion to other order plants allows up to 16 days' production to be diverted without any specific requirement as to the amount to be delivered from the same producer during the month to pool plants. This provision also is modified to require delivery to pool plants for a number of days of production equal to the number of days of production diverted.

The cooperatives, in supporting their proposal, claimed that existing provisions have been abused by a practice of identifying a producer's milk with a pool plant through a few days delivery, and then diverting the producer's milk to the maximum extent to a nonpool plant.

The revised provisions are expected to eliminate the incentive to continue this type of diversion. The revised provisions will allow, however, for orderly handling of market reserve milk.

3. *Classification and allocation.* The expanded St. Louis-Ozarks order should provide for two classes of milk as do the present orders. Class I milk would be principally that disposed of as route disposition of fluid milk products. Class II milk would be principally the skim milk and butterfat used to produce manufactured dairy products, milk products dumped, milk products disposed of to commercial food establishments, sold for livestock feed and shrinkage of skim milk and butterfat. This classification is for the most part similar to that in the present orders.

The modifications of the classification provisions (compared to the present orders) are relatively limited and are primarily concerned with the classification of yogurt, sour cream, dips, and sterilized products in hermetically sealed containers.

Sour cream disposed of under a Grade A label should continue to be classified as Class I milk. Under sanitary regulations in the marketing area, sour cream is required to be made from Grade A milk and the finished product must be labeled Grade A. In the present St. Louis order, sour cream products to which cheese or any food substance other than a milk product has been added and which contains not more than 15 percent butterfat is distinguished as a product type separate from regular sour cream. The order classifies such a product as Class II milk. Such sour cream mixtures, often referred to as "dips", need not be labeled Grade A. Accordingly, for purposes of classification, it is preferable to make the distinction between these products and unmodified sour cream on the basis of whether the finished product is labeled Grade A rather than on the basis of the percent of butterfat content. The present Ozarks order classifies sour cream mixtures on this basis, and the cooperative associations proposed this

method of classification for the St. Louis-Ozarks order.

Sterilized products hermetically sealed in metal or glass containers, sterilized either before or after sealing so as to prevent microbial spoilage should be classified as Class II milk. Sterile products so packaged may be distributed regionally from central locations. Grade A requirements for supplies used in the preparation of the products have not been generally established. In these circumstances the product sources are not readily identifiable as related to the Grade A supply requirement of the market.

Ending inventory of fluid milk products should be classified as Class II milk. This will continue the same manner of handling inventory as now applies under the St. Louis and Ozarks orders. Both handlers and producers objected that classifying packaged inventory as Class I is inconvenient under their book-keeping procedures. Either method provides the same net returns to producers over a period of time.

Ending inventory classified as Class II may be used as Class I in the following month. Proper adjustment of the handler's obligation is accomplished, first, by allocating beginning inventory of fluid milk products against the handler's disposition, and secondly, by charging the handler the difference between the Class II price for the preceding month and the Class I price for the current month for the quantity of beginning inventory allocated to Class I.

Determination of shrinkage is part of the classification procedure. The proposed order would require plant shrinkage to be computed for each plant of basis for all plants of a handler. Since separate reports would be required for each plant covering its receipts and utilization, the shrinkage computation for each plant would be part of this reporting procedure. Separate reports and shrinkage for each pool plant will preclude a handler operating two or more plants from offsetting shrinkage in one plant against overage in another. This requirement should apply whether or not there are transfers between the plants of the handler.

If milk products are transferred between pool plants of the same handler, the same care should be given to recording the weights and tests of milk so transferred as is given to transfers to pool plants of other handlers. Separate shrinkage computations for each plant are necessary to make the accounting requirements for the multiple pool plant operator similar to the accounting required of the operator of an individual plant.

The language of the shrinkage provision is revised to conform with the revised definition of handler. The plant operator would be allowed two percent as maximum shrinkage in Class II on producer milk for which he is the handler receiving the milk from producers' farms. This conforms to the usual situation in which there is mutual agreement between a handler and a cooperative that

purchases are at farm weights and tests. The same arrangement would apply in the case of purchases from nonmembers.

If, however, the plant operator is receiving milk in tank trucks operated by or under contract to a cooperative association and decides to purchase milk from the cooperative on a basis other than farm weights and tests, he would be allowed 1½ percent shrinkage in Class II on such receipts. In the latter case the cooperative would be the first handler and would be allowed one-half percent shrinkage in Class II. The handler definition provides that a plant operator must file notice with the cooperative and the market administrator prior to delivery of the milk that he intends to receive the milk on a basis other than farm weights and tests.

It is commonly recognized that some shrinkage may occur between pickup at the farm in tank trucks and delivery to pool plants. An allowance of one-half percent is commonly allowed for such shrinkage. The new shrinkage provision would similarly allow one-half of 1 percent on milk diverted to milk plants if the plant operator does not purchase the milk on the basis of farm weights and butterfat tests.

The proposed transfer provisions are generally the same as in the present orders with few modifications. The classification as Class I of skim milk and butterfat transferred or diverted in bulk to a nonpool plant located more than 350 miles from the St. Louis city hall, however, is based on shortest highway distance, rather than on airline mileage as in the present orders. This change was proposed by the cooperative associations to conform with the manner in which milk is moved and which is recognized as the practical measurement for distances under milk orders. The 350-mile limit from St. Louis encompasses all the manufacturing facilities now used by handlers under either order for disposal of excess supplies of milk. It should also be noted that cream transferred to a nonpool plant may be classified as Class II milk if prior written notice is given to the market administrator and each container is labeled by the shipping handler as "non-Grade A" cream for manufacturing use only. This change from the present term in the orders of "Grade C" merely updates the order language to meet current trade practices.

Allocation. After the classification has been determined for all milk and milk product disposition, or use, at each plant, the class uses so determined would be allocated to plant receipts. The allocation provisions of the merged order conform closely to provisions of the St. Louis and Ozarks orders with modifications as explained herein.

In the case of a multiple plant handler, it is provided that this allocation is on an individual plant basis unless the handler has receipts of other source fluid milk products assigned to Class I under such allocation. In the latter case, it is required that allocation be made on a system basis including milk receipts and disposition at all of the handlers' plants.

System allocation is necessary under the circumstances to avoid a disproportionate assignment of producer milk to the Class II milk in the handler's system. Such unfavorable allocation of producer milk to Class II would occur if the handler's receipts of the other source milk were at a plant with a higher Class I utilization than the average in his system. The system allocation will assure that receipts of other source milk to be prorated to Class I and Class II utilization will receive classification based on class use in the handler's system.

Receipts from handler pool markets. Milk received from an individual handler pool market should be allocated separately from other receipts and the receiving handler should be obligated to the producer-settlement fund for the class use value of such milk in excess of the weighted average price.

Transfers of milk from a handler pool Federal order market have been received frequently in this market during the past several years, and at times in substantial quantity. Although this milk is priced under another Federal order, it nevertheless has been a disturbing factor in the market. This is due to the certain characteristics of marketing under a handler pool order and privileges of cooperative associations in marketing and paying membership.

The attractiveness to cooperative associations to make interorder shipments, in such circumstances, depends on the Class I utilization thus obtainable. The situation here complained of by proponents relates to a higher than market average Class I utilization being assigned to the milk from the handler pool market.

The rules of assignment under the St. Louis order, for such receipts, are similar to corresponding provisions in other orders. The class use assignment is pro rata to either the marketwide percentage of Class II of all handlers (at the same stage of allocation procedure) or the receiving handler's percentage of Class II, whichever percentage of Class II is the larger. The quantity to be thus assigned to Class II shall not exceed the Class II in the handler's system, the remainder of the receipt to be assigned to Class I. Thus, if the receiving handler's Class II utilization is small, the assignment to Class I for the intermarket shipment may well be above market average.

The particular incentives for a cooperative association in a handler pool market to make Class I sales into other markets having market pools, does encourage the use of handling practices and pricing practices which, in many circumstances, tend to undermine the pricing structure of the receiving market. The proposal considered here is intended to neutralize the particular incentives and advantages associated with the transferring of milk from a handler pool market to this market to the extent that such advantages depend on circumstances other than a difference in Class I prices under the two orders. The proposal would not prevent intermarket transfers.

The proposal made by the cooperative associations in this market is that in the case of milk received at a pool plant from a handler pool market the handler should pay into the producer-settlement fund any amount by which the class use value of such milk exceeds the uniform or weighted average price. It is concluded herein that under circumstances in this market, such a payment would be a proper method of neutralizing the special advantages and incentives associated with such transfers.

The interorder transfers are arranged by a cooperative association in the handler pool market, which acts as a marketing agent for this milk whether the milk originates from members or from other farmers who qualify as producers under that order. The milk transferred is identified, however, with a plant regulated under that order, and accordingly priced under the North Central Iowa order at that location.

An essential element of the problem is that the cooperative association is able to offer the milk to handlers in the St. Louis-Ozarks market under circumstances that do not require it to recover all handling costs as well as the class prices for such milk under the North Central Iowa order. Proponents gave data showing that the price paid to the farmers supplying the milk was less than the handler uniform price calculated under the North Central Iowa order for the cooperative handler. During 1966 the average price received by those dairy farmers was about 21 cents less per hundredweight than the order blend price for the cooperative handlers. The inference is that whatever portion of the cost is not recovered by the cooperative is absorbed by members by accepting a price for their milk which is less than the handlers' order blend price.

Certain cooperative associations in the North Central Iowa market, in exceptions, claimed that the milk was transferred at higher than North Central Iowa order prices. They claimed, further, that payments made to their producers at less than order blend prices were due to blending with lower returns for sales in another Iowa market. On the record, these exceptors did not testify, nor are there data substantiating these claims. Exceptors did not controvert that the transferred milk has the advantage of higher than market average utilization.

There is a particular incentive for a cooperative in a handler pool market to dispose of milk in other markets, because there is a direct relationship between the association's Class I disposition in all markets and the returns to its member producers. None of the returns from such Class I disposition need be shared with other producers in the market as in the case of market pooling. Thus, each Class I disposition the cooperative handler can make in another market may provide a direct reward to members in the form of a higher blend price.

There may be greater incentive for such association to increase Class I sales

in other markets rather than its home market. The opportunity for increasing Class I sales in the home market may be very limited, particularly if the association is already furnishing most of the supplies in the market. Further, there may be reluctance to disturb the competitive situation in the home market.

In addition, the objective of a handler under an individual handler pool order (whether or not a cooperative association) disposing of milk in another market may be principally to dispose of reserve supply. In this manner he avoids the depressing effect on his blend if such milk were used for manufacturing purposes. On the other hand, such sales to a market pool market depress the uniform price to producers in the market pool.

Under an order with a market pool, such incentives do not exist to the same degree for a cooperative association as a handler to dispose of reserve milk in another market. To the extent that the returns for such sales must be shared in the market pool with producers who are not members of the association, the benefits are diminished.

There is incentive to make Class I sales in other markets even if all costs of handling are not recovered. The gain from higher Class I use can exceed the loss of handling charges not recovered. Such opportunity to gain higher returns for members even while absorbing losses on handling is a particular characteristic of a handler pool market, since the returns from all sales may go directly to members and need not be shared with other producers.

The proposed provision applicable to the quantity of handler pool milk received would require payment into the producer-settlement fund of any excess of utilization value over the weighted average price. This would serve to neutralize the special advantages, as described, which would otherwise accrue to the pool handler so obtaining a supply for fluid use and the supplier(s) in the handler pool market. Such special advantages to receiver and supplier would be likely only when the receiving handler has a utilization higher than the normal Class I utilization level in the St. Louis-Ozarks market. If the receiving handler's utilization were the same as the market average, the transfer would not likely provide a means for the supplier in the handler pool market to improve his utilization, and thus such special advantages to the receiver and supplier(s) would be voided by this circumstance. In no case should a reverse equalization payment apply if the classification of the intermarket transfer represents a value less than the weighted average price, since any payment out of the pool would be a depletion of the funds in a manner tending to support procurement for surplus use.

A handler's obligation to the producer-settlement fund on account of the receipt of milk from another Federal order with a handler pool needs a special adjustment. The provision made on receipts of milk from an individual-handler pool market affords a credit at the uniform

price of this market and at the location of the originating plant in the other market. But, the plant in the originating market is required to account to its producers at the utilization value of the other market. This utilization value will be higher than the credit accorded at the uniform price of this market. In order to adjust for this difference and so that this provision will not impose an additional charge on a transaction from the other market, this special credit is required.

The additional credit will amount to the Class I location adjustment at the plant in the other market times the quantity of milk represented by the difference in the percentage of Class II in the receiving handler's assigned utilization on the shipment and the percentage of Class II in the marketwide utilization. This adjustment will eliminate any loss of location adjustment which would occur because of the differences between the handler's utilization and the marketwide utilization.

The proposed provision would require that the receiving handler pay into the producer-settlement fund part of the class use value of the milk he received from the handler pool. The remaining money value would not be a money obligation against the handler under the St. Louis-Ozarks order.

The classification of milk received from other order markets would be reported by the market administrator in this market to the market administrator of the shipping market. Such a system of intermarket information is commonly provided in all orders and provides the basis in the shipping market for establishing the shipping handler's obligation.

In this case, the market administrator would report a classification of the milk from the handler pool market. This classification would be Class I and Class II in the same percentages as the average utilization in the St. Louis-Ozarks pool. If the market average utilization is not available at the time the report is to be made the order provides (as now provided in the St. Louis and Ozarks orders) for the market administrator to make an estimate of the market utilization.

The market average utilization is appropriate as a basis for classifying the receipt from the handler pool market, inasmuch as the payment required of the receiving handler reflects the difference of the classification of the milk in his plant as compared to average utilization in the market.

The method of determining the classification here provided is more direct than the method provided in the recommended decision.

4(a) *Differential over basic formula price.* The price for Class I milk should be established for three price zones in the marketing area, and should be subject to location differentials outside the marketing area. A specific differential of 27 cents should apply to supply plants in the area of southwest Missouri which has served as a supply area for St. Louis.

The Zone Class I prices should be as follows:

(1) In Zone I of the marketing area (all of the marketing area except the Missouri counties of Bollinger, Cape Girardeau, St. Francois, Perry, and Ste. Genevieve and the Arkansas counties of Benton, Boone, Marion, and Washington): The basic formula price of the preceding month plus \$1.40 and for the period through April 1969 plus an additional 20 cents.

(2) In Zone II (the Missouri counties of Bollinger, Cape Girardeau, St. Francois, Perry, and Ste. Genevieve): The Zone I price plus 15 cents.

(3) In Zone III (Arkansas counties of Benton, Boone, Marion, and Washington): The Zone I price plus 17 cents.

The Zone I price is the Class I price made effective under the St. Louis order by amendments effective May 1, 1968 (33 F.R. 6519), and August 1, 1968 (33 F.R. 10938). The Zone II price also is already effective for all plants in that zone regulated by the St. Louis order. The Zone III price would provide a differential over the southwest Missouri price level similar to that which now exists but in lesser amount. The Class I price to apply at supply plants in southwest Missouri approximates the level which applies currently to such plants in this area under the two orders.

The merging of the two marketing areas provides a basis for a broader area within which the St. Louis price level should properly apply. Presently the pricing under the two orders results in a Class I price 25 cents lower in a part of the proposed marketing area (southwest Missouri) which intervenes between the St. Louis level and markets in Arkansas and Oklahoma where higher levels apply. Extension of the St. Louis City price level to all pool distributing plants throughout this large part of the marketing area is desirable to provide the same cost of Class I milk supplies to the handlers located here and to provide a better relationship with other markets. Other pricing provisions relating to supply plants would aid in developing full use of supplies in this area. The 17-cent plus differential to be applicable to the Arkansas counties would also reflect a proper geographic relationship for this area closer to higher priced Arkansas markets.

The price of Class I milk within the marketing area then would conform also with the regional price relationships. The presently lower price intervening between the higher prices at St. Louis and in Arkansas is opposite to the regional pattern of graduated increases from lower price levels in surplus areas to the north of this market, to higher prices in less intense milk production areas to the south.

The two Springfield pool plants which would be affected by the 25-cent price increase have extensive distribution into Arkansas in the direction of higher priced markets. The Class I price which would apply at the plants of these two handlers would nevertheless, be 34 cents less than the price at Little Rock, Ark., under the Central Arkansas order and 35 cents less than the Class I price at Fort Smith, Ark., under the Fort Smith

order. The increase in the price level for southwest Missouri, therefore, would not be a hindrance to reasonable inter-market relationships in the southerly direction. The plus differential applicable in the four Arkansas counties is reasonable in relation to the cost of moving milk from Springfield, Mo., to Fayetteville, Ark.

Producer groups in their exceptions to the March 18, 1968, recommended decision stressed that a lower price at Springfield than at St. Louis under the same order would result in extreme difficulty in maintaining marketing relationships with handlers under this order as well as with producer groups in other surrounding markets. Also representatives of producers supplying the Central Arkansas and Fort Smith markets, in exceptions to the revised recommended decision, argued that it is necessary to continue a differential between Springfield, Mo., and Fayetteville, Ark. In the revised recommended decision plants in Arkansas would have a Class I price at the St. Louis level (as they do now) but no differential over southwest Missouri would have applied since that price was raised to the St. Louis level.

Under the Ozarks order the price in Washington and Benton Counties, Ark., has been 25 cents over the price at Springfield, Mo. The uniform price to producers at plants in Washington and Benton Counties reflects this 25-cent differential only to the extent that handlers in these counties use producer receipts in Class I.

The uniform price calculated in this manner has been less than 25 cents over the uniform price at Springfield, Mo. In 1965 and 1966, the average of monthly differences was 18 cents and 16 cents, respectively. And during the first 9 months of 1967 averaged 14 cents.

The largest handler operation in Washington and Benton Counties is at Fayetteville. Two other handlers have plants in these counties, one in Fayetteville and one at Rogers, Ark. The principal handler at Fayetteville contended at the hearing that proper hauling costs from Springfield to Fayetteville would be not more than 17 cents and that this would result in a more equitable competitive relationship with the Springfield, Mo., handlers. Milk is marketed in these counties from plants at the Springfield, Mo., location.

The plus differential at Fayetteville was originally established to provide for procurement of milk at this location under a competitive situation among several southwest markets including those in Oklahoma, Texas, and Arkansas. Data for recent years indicates, however, that a differential of as much as 17 cents has been sufficient to attract a supply of milk at this location.

Dairy farmer exceptions stressed the need to provide a relationship of price levels at Fayetteville with price levels in Arkansas. In view of competitive relationships between Ozarks handlers at this location and handlers under the Central Arkansas and Fort Smith orders, in their opinion, a differential over

Springfield, Mo., similar to that proposed in the recommended decision, March 18, 1968, is needed to provide proper relationships.

It is concluded at 17-cent plus differential for the four Arkansas counties will provide a better alignment of prices within the region than a price level equal to that at Springfield and such differential is adopted to apply in all four Arkansas counties. The only plants now regulated in these counties are in Benton and Washington Counties.

The Class I price at supply plants in southwest Missouri should continue to be closely similar to present prices based on distance from St. Louis. All of these plants which have been supply plants on either the St. Louis or Ozarks market should be included in a southwest Missouri zone to provide for such differential pricing of Class I milk. A minus differential of 27 cents applicable to supply plants in this zone would approximate an average of the differentials which have applied in this area. Supply plants in this zone represent a reserve supply for St. Louis and differential pricing must be provided because of the cost of shipment to St. Louis.

The minus 27-cent differential is the same as proposed by cooperative associations to apply to Class I milk shipped from these plants to St. Louis. In the provisions adopted herein, however, the differential would apply to any Class I milk at these plants, subject to the limitations of assignment of shipments to Class I in the transferee plant. The zone to be designated as Zone A for location pricing purposes would include the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Texas, Webster, and Wright.

This system of differential pricing is based on the customary differentials for this area in relation to St. Louis and to accommodate the customary method of marketing milk from this area for Class I uses.

The producer proposal to apply a Class I price in southwest Missouri 31 cents higher than at St. Louis is not adopted. The principal basis for the proposal was the desire to provide a better price relationship with the Arkansas markets and other markets to the south.

The Class I prices adopted herein provide more appropriate relationship with the markets to the south than the price level proposed by producers. A higher price level than here adopted would be contrary to the relative supply conditions of this area compared to Arkansas markets. Supplies for Class I use are relatively more ample in southwest Missouri than in the Arkansas markets.

Under the provisions adopted herein all Class I milk in each plant would have the same price irrespective of its ultimate use at some other location. The producer proposal to have several prices for milk in the same plant is impractical and would prevent formulation of a consistent method of location pricing. On the other hand, the method of pricing adopted herein provides uniformity among handlers distributing milk in the

area while yet allowing opportunity for supplies in excess of local needs to move to other areas.

The amount of price differences compared with markets to the south of the market were reduced by the removal, August 1, 1968, of the effect of the minus 24-cent factor representing the old Chicago order supply-demand adjuster. The pricing modifications adopted here further reduce intermarket differences.

No change would be made in the basic formula price from that now effective under the St. Louis order. The basic formula price is the price for manufacturing grade milk in Minnesota and Wisconsin adjusted to 3.5 percent butterfat test. It is provided, however, that through April 1969, for the purpose of computing the Class I price the minimum basic formula shall be \$4.33.

It was proposed that the Class I butterfat differential be reduced to the level of the Class II butterfat differential. This proposal should not be adopted.

The present Class I butterfat differentials in the two orders are identical. They are determined for each month by multiplying the Chicago 92-score butter price by 0.12. The Class II butterfat differentials, also identical in both orders, are determined by multiplying the Chicago butter price by 0.115. The resulting butterfat differentials apply to each one-tenth of a percent of butterfat above or below 3.5 percent.

Producers contended that lower butterfat differentials for Class I milk would encourage use of more butterfat in fluid milk disposition and would increase sales of cream. This was intended to bring about a closer balance between butterfat content of producer milk and utilization of butterfat in Class I milk.

It was not clear from testimony whether proponents expected that the adoption of their proposal would materially affect returns to producers. It is apparent, of course, that reducing the Class I butterfat differential would to some extent increase skim milk values. Proponent cooperatives did not offer specific testimony to justify such increase.

When the Class I value of butterfat is the same as the Class II value no essential monetary gain for producers is made if handlers shift a proportion of their butterfat use from Class II to Class I. There is no basis here to conclude that higher butterfat content of Class I milk products would stimulate sales. In some respects consumers have shown increasing preference in recent years for fluid products with lower average butterfat content. Since the evidence is inadequate to make a determination that any benefits would result from the producers' proposal, and it could reduce returns, the proposal is not adopted.

(b) *Supply-demand adjuster.* A decision in this matter was issued April 16, 1968 (33 F.R. 6106), and the St. Louis order was amended effective May 1, 1968 (33 F.R. 6527), eliminating the supply-demand adjuster.

(c) *Location adjustments.* The location differential system would be modified from existing order provisions. The mileage used would be shortest highway

mileage as determined by the market administrator rather than airline miles. This change was proposed by a cooperative association to conform with the manner in which the milk is moved and in recognition that this is the normal method in which distances are measured under milk orders. The location adjustments at pool plants outside the marketing area would be based on such mileage distance from the city hall in St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer. With the extension of the St. Louis City price level to southwest Missouri, it is necessary to have a location basing point at Springfield as well as at St. Louis. It would not be appropriate to calculate a location adjustment from St. Louis for a pool plant outside the marketing area and shipping to the Springfield area if the shipping plant were substantially closer to Springfield. The rate of location adjustment outside the marketing area and more than 30 miles from such basing point would be 1.5 cents for each 10 miles or fraction thereof of distance. At pool plants in the marketing area, location adjustments to handlers are provided by establishing differential Class I prices for designated zones. One of the differential zones would include Texas County, Mo., which is outside the marketing area so that the prices at the Cabool plant would be the same as for other supply plants in southwest Missouri.

All of the location price adjustments, whether based on the distance from St. Louis city hall, Springfield city hall, or the location of the plant within the zone, would apply to the handler's obligation for Class I milk. The same adjustments would apply to the uniform price paid to producers except that no adjustment would apply to the milk delivered to supply plants in the southwest Missouri zone where the minus 27-cent differential applies to handler's obligations. Producers delivering to these plants are intermingled with producers delivering to pool distributing plants where no differential applies. Producers delivering to both types of plant should receive the same uniform price. A differential price for milk delivered to the supply plants would discourage deliveries to these plants, and be disruptive of orderly movement of milk to the several plants to most effectively furnish the requirements of handlers and dispose of reserve milk.

The proposed system of location adjustments reduces the amount of adjustment at points more than 30 and less than 40 miles distant from the St. Louis city hall from 16 cents to 6 cents. There is no basis for a greater rate of adjustment at such location than for more distant locations. Distributing plants serving the main metropolitan area are located in the marketing area less than 30 miles from the city hall. It is public knowledge that the one small operation within the 30-40-mile zone in Missouri has discontinued operations. As under the present St. Louis order, no location adjustment should apply to plants located within 30 miles of the St. Louis city hall. In the nearby areas in Illinois, the

St. Louis order provides a location adjustment of minus 10 cents for those locations in Madison, Monroe, and St. Clair Counties, and in Looking Glass, St. Rose, Breese, or Germantown Township in Clinton County, which are more than 30 miles from the city hall in St. Louis. All of this area is within a radius of 40 miles from St. Louis, Mo., and thus the revised location differentials would provide lesser deductions within this area, depending on the distance from St. Louis. This would result in a better coordination of pricing with the Southern Illinois order at all known plant locations.

No change should be made in the application of location adjustments to milk received at plants in Cape Girardeau, Perry, or St. Genevieve Counties, Mo. (Zone II). Producer associations proposed that the uniform price at such plants reflect the plus 15 cents over the St. Louis location only in the same proportion as producer milk received at such plants is used as Class I. This, however, would be inconsistent with the relative values of producer milk as delivered at the various locations of regulated plants. Testimony of proponent producer groups supported a differential of at least 15 cents between Cape Girardeau and St. Louis with respect to Class I prices. A like differential should apply to producer uniform prices to be consistent with such differential value and thus assure delivery of adequate supplies according to fluid needs.

Location adjustments to handlers apply only to Class I milk. Thus, at a plant where the order specifies a minus location adjustment, the Class I price for route disposition from such plant is reduced at the indicated rate per hundred-weight. When a supply plant, at which a minus location adjustment applies, ships milk to another plant the question arises as to what part of such transfer should be subject to location adjustment credit. Still another problem arises in the case of a multiple-plant handler when the order requires that the allocation of his class uses be on a system basis rather than on individual plant basis.

Location adjustments in the case of transfers of fluid milk products between pool plants should apply to the extent that such transferred quantities are needed to supply the Class I requirements of the transferee plant.

The St. Louis order provision now assigns the Class I milk of the transferee plant (excluding Class I assigned to receipts from nonpool plants) first to direct receipts from producer's farms (up to 95 percent of such receipts) and then assigns remaining Class I to the transfers from pool plants with least minus location. This is for the purpose of preventing deductions for location allowance on shipments not needed for Class I.

At the hearing, producer cooperative associations proposed a different method of assigning location differentials to transfers between plants. They would continue the assignment to shipments from nearest plants, but would include in this determination the shipments from nonpool plants as well as pool plants.

The difficulty with the proposed assignment is that the amount of location allowance, which is in fact deducted from the value of the market pool, would reflect Class I quantities assigned to non-pool sources. This method thus would be inconsistent with the allocation of class use to pool and nonpool receipts, and would not serve the essential purpose of limiting location allowance on pooled milk to the quantity needed to be transferred for Class I requirements. In the provision adopted, therefore, the quantities of Class I milk allocated to other source milk are excluded from the computation of location differentials applicable to transfers between pool plants.

The provision adopted is virtually the same as the present St. Louis order provision which has provided adequate incentive for interplant movements. In the adopted provision, assignment of location differentials to milk transferred between pool plants is based on the quantity of Class I milk remaining in the transferee plant after excluding Class I assigned to other source milk and after deducting from Class I the quantity of milk received directly from producers (up to 95 percent of such receipts).

There are circumstances involving the operator of two or more plants which require that the allocation provisions of the order apply to such a handler on a "system basis" rather than on an individual plant basis. A method is therefore provided in the order to assign Class I milk of the handler's system to individual plants for the purpose of location adjustments.

Minus location differentials to handlers on Class I milk are credited from pool funds and are deductible from Class I values computed at the f.o.b. market Class I value in Zone I (St. Louis area). Such credit should be held to the minimum which will accommodate only the movement of milk needed to fulfill the requirements of the Class I market. Any greater deductions for transportation would unnecessarily lower returns to producers.

It was proposed by producer cooperative associations that milk diverted to distant nonpool plants be priced at the location of the nonpool plant. Their proposal would apply to milk diverted more than 120 miles from St. Louis. At any lesser distance from St. Louis, the milk would be priced at the location of the plant from which diverted. For milk diverted to the plant at Eldorado Springs, Mo., they requested that the price be the same as at other plants in southwest Missouri.

The proposed order will price milk diverted to nonpool plants more than 120 miles from the city halls of St. Louis, Mo., or Springfield, Mo., whichever is nearer, at the location of the plant to which diverted. At lesser distances the pricing would be at the plant from which diverted. A basing point at Springfield as well as St. Louis should be used in view of the extension of the St. Louis price level to southwest Missouri. The distance of 120 miles would encompass Eldorado Springs.

Without such a provision, a relatively distant producer could be diverted much of the time to a plant near the producer while yet receiving the marketing area uniform price, based on diversion from a marketing area plant.

The higher uniform price established for milk delivered to marketing area plants than for milk at distant pool plants provides the necessary incentive for deliveries to the marketing area when milk is needed there. The purpose of this incentive would be defeated, therefore, if a producer were paid at the marketing area price for milk delivered, not to the marketing area, but to distant plants.

Milk diverted from a pool plant to another pool plant should in each case be priced to handlers and producers at the location of the plant to which diverted. There is no essential difference in the physical handling between milk received by a plant operator at his plant from his producers and milk received as diverted from other pool plants. Identical pricing for both types of receipts is therefore appropriate, and will prevent any advantage to a handler on milk received as diverted from a plant with a lower Class I price.

Milk diverted to another order plant does not involve a problem of location adjustment of class prices to the diverting handler since such diversions are limited to Class II milk.

5. Miscellaneous and administrative changes. In general the present St. Louis order has been used to construct the provisions of the order for the merger of the St. Louis and Ozarks orders. However, certain parts in addition to those specifically referred to herein have been revised to make all provisions more compatible with present marketing conditions in the handling of milk in the proposed area. The provisions referred to here do not change substantially the effect of the provisions of the order but merely serve to update the order language.

The present St. Louis order under the subject heading of "Reports of Receipts and Utilization" requires that a handler report, in addition to the information specifically required, such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe. This provision is included in the order recommended herein. A handler objected to this provision on the basis that it gave the market administrator too broad authority. However, this handler could not cite any instances where he thought such authority had been abused. This provision is used in most all Federal milk orders as a means of providing the market administrator an opportunity to seek all necessary information to verify handlers' reports of receipts and utilization and should be adopted as proposed herein.

Several miscellaneous changes from order language in the recommended decision are needed to assure the effectiveness of the various order provisions.

Cream transferred for Class II use to points beyond 350 miles from St. Louis city hall should be conditioned on prior

written notice to the market administrator.

In making payments out of the producer-settlement fund it is provided that the market administrator shall offset any payment due any handler against payments due from such handlers. It should be specified that the offsets may be against payments due from the handler with respect to amounts due the producer-settlement fund, amounts due because of errors in payment, and amounts due for marketing services and expense of administration.

When verification by the market administrator discloses an error in payment by a handler to the producer-settlement fund, it is provided that the market administrator promptly bill the handler for any deficiency. Payment should be required within 30 days of such billing.

Overdue accounts with respect to marketing service payments due the market administrator should be subject to the same interest accrual as other overdue accounts to the market administrator.

For partially regulated distributing plants, the administrative expense requirement should apply to Class I milk disposed of on routes in the marketing area that exceeds Class I milk received from pool plants and other order plants. The applicable order provision is clarified in this respect.

(a) *Exempt plants.* A milk plant operated by a governmental agency should be exempt from all provisions of this order. The record indicates there are several colleges and state institutions which maintain dairy herds and/or processing plants. These herds are kept in connection with the research and educational functions or for other reasons. Milk produced by the dairy herds at these governmental institutions is primarily for use at such institutions. These operations are relatively self-contained, with only small quantities of milk interchanged with other parties in the market.

Regulation of such an operation could be disruptive to the purposes of such agency's dairy operations and would not serve any useful purpose in effective order regulation for the market. It is provided, however, that any fluid milk products transferred or diverted from pool plants to an exempt plant operated by a governmental agency be classified as Class I milk. It is reasonable to assume that purchases by such agencies in the form of fluid milk products would be needed and used for Class I purposes. It is further provided that milk received at a pool plant from an exempt governmental agency be assigned first to Class II milk in the pool plant. Milk sold from a governmental agency to a pool plant clearly represents surplus to the institutions production, processing and consumption operations and moreover does not represent a reliable supply for the market and thus should be classified as Class II milk.

(b) *Payments to producers.* Certain dates with respect to announcement of payments to various funds and to producers should be adopted as proposed by proponents at the hearing. The dates as

adopted herein would require each handler to make payment on or before the 17th day after the end of the month, during which the milk was received, to each producer for whom payment is not made to a cooperative association. Partial payments to producers and to cooperative associations in payment for milk received during the first 15 days of the month should be made on or before the last day of each month. It is provided that the responsibility for classification of producer milk received from a cooperative association in its capacity as a handler of bulk tank milk is that of the operator of the pool plant. Such producer milk is assigned to the plant operator's utilization at the plant where received. The value of the milk as provided herein is included in the plant operator's net pool obligation at class prices. In turn the pool plant operator is required to pay the applicable market uniform price to the cooperative association for such milk. The plant operator is also responsible for paying the administrative assessment applicable to such milk. The procedures herein provided make for specific accountability on the part of cooperative associations and the operators of pool plants with respect to bulk tank milk under the control of cooperative associations. With operators of pool plants responsible for equalization in the market-wide pool with respect to such receipts from cooperative associations, classification and auditing procedures are simplified in the administration of the order.

(c) *Market services.* A marketing service deduction of 6 cents per hundredweight should be provided in the merged St. Louis-Ozarks order.

The present orders provide a maximum deduction of 5 cents per hundredweight for marketing services to be used by the market administrator to verify weights, samples and tests of milk received from producers and to provide them with market information.

There are approximately 100 producers at the present time not members of a cooperative association, equal to less than 3 percent of the total number of producers in the combined St. Louis-Ozarks markets. These producers deliver milk to 11 different pool plants scattered throughout the merged marketing area.

For the most part, the market administrator presently employs cooperative associations to check the butterfat tests of producers who are not members of cooperative associations. These associations, however, have informed the market administrator that they cannot continue the check testing of butterfat at the rate now paid by the market administrator. Estimated costs of check testing these butterfat samples from a central laboratory exceed the present 5 cents per hundredweight rate. In this estimated cost no allowance was made for checking the accuracy of weights obtained at the farm from bulk tanks. The testimony also showed that for the most part there are no laboratories for employment to render such services.

Since the present number of producers that are not members of a cooperative association are few and scattered through-

out the marketing area, it is reasonable to permit a maximum deduction for marketing services at 6 cents per hundredweight. It should be noted, however, that both the present and the proposed order provide that the Secretary may prescribe a lesser rate should the 6-cent rate produce more money than needed for the intended purposes.

(d) *Administrative expense.* The present rate of deduction for expense of administration should be 2.5 cents per hundredweight or such lesser amount as prescribed by the Secretary.

The maximum rate now provided in the Ozarks order for administrative expense is 5 cents per hundredweight but through administrative action only 1.5 cents per hundredweight is currently being assessed for the administration of the order. The maximum assessment now provided in the St. Louis order is 2.5 cents per hundredweight with 2 cents per hundredweight being the current assessment.

The rate of 2.5 cents per hundredweight should be adequate for the combined and expanded new order. The assessment, as now, should apply to each handler's receipts of producer milk including his own production, receipts from a cooperative association in its capacity as a handler of bulk tank milk and the quantity of unregulated other source milk allocated to Class I milk.

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.

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.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid 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.

(a) The tentative marketing agreements and the orders 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 agreements and the orders, 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 agreements and the orders, 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.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing agreement regulating the handling of milk in the St. Louis-Ozarks Marketing Area", and "Order regulating the handling of milk in the St. Louis-Ozarks Marketing Area", 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.

REFERENDUM ORDER; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the St. Louis-Ozarks marketing area, is approved or favored by the producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of July 1968 is hereby determined to be the representative period for the conduct of such referendum. Fred L. Shipley is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (30 F.R. 15412), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on September 19, 1968.

ORVILLE L. FREEMAN,
Secretary.

ORDER¹ REGULATING HANDLING OF MILK
IN ST. LOUIS-OZARKS MARKETING AREA

DEFINITIONS

- Sec.
- 1062.1 Act.
- 1062.2 Secretary.
- 1062.3 Department.
- 1062.4 Person.
- 1062.5 Cooperative association.
- 1062.6 St. Louis-Ozarks marketing area.
- 1062.7 Producer.
- 1062.8 Handler.
- 1062.9 Producer-handler.
- 1062.10 Distributing plant.
- 1062.11 Supply plant.
- 1062.12 Pool plant.
- 1062.13 Nonpool plant.
- 1062.14 Producer milk.
- 1062.15 Other source milk.
- 1062.16 Fluid milk product.
- 1062.17 Route disposition.
- 1062.18 Chicago butter price.

MARKET ADMINISTRATOR

- 1062.20 Designation.
- 1062.21 Powers.
- 1062.22 Duties.

REPORTS, RECORDS AND FACILITIES

- 1062.30 Reports of receipts and utilization.
- 1062.31 Payroll reports.
- 1062.32 Other reports.
- 1062.33 Records and facilities.
- 1062.34 Retention of records.

CLASSIFICATION

- 1062.40 Skim milk and butterfat to be classified.
- 1062.41 Classes of utilization.
- 1062.42 Assignment of shrinkage.
- 1062.43 Responsibility of handlers and reclassification of milk.
- 1062.44 Transfers.
- 1062.45 Computation of skim milk and butterfat in each class.
- 1062.46 Allocation of skim milk and butterfat classified.

MINIMUM PRICES

- 1062.50 Basic formula price.
- 1062.51 Class prices.
- 1062.52 Handler butterfat differentials.
- 1062.53 Location differentials to handlers.
- 1062.54 Use of equivalent prices.

APPLICATION OF PROVISIONS

- 1062.60 Exemptions.
- 1062.61 Plants subject to other Federal orders.
- 1062.62 Obligations of handler operating a partially regulated distributing plant.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

- 1062.70 Computation of the net pool obligation of each pool handler.
- 1062.71 Computation of uniform prices.
- 1062.72 Notification of handlers.
- 1062.73 Overdue accounts.

PAYMENTS

- 1062.80 Time and method of payment.
- 1062.81 Butterfat differential to producers.

- Sec.
- 1062.82 Location differential to producers and on nonpool milk.
- 1062.83 Producer-settlement fund.
- 1062.84 Payments to the producer-settlement fund.
- 1062.85 Payments out of the producer-settlement fund.
- 1062.86 Adjustment of errors in payments.
- 1062.87 Marketing services.
- 1062.88 Expense of administration.
- 1062.89 Termination of obligation.

MISCELLANEOUS PROVISIONS

- 1062.90 Effective time.
- 1062.91 Suspension or termination.
- 1062.92 Continuing power and duty of the market administrator.
- 1062.93 Liquidation after suspension or termination.
- 1062.94 Agents.
- 1062.95 Separability of provisions.

AUTHORITY: The provisions of this Part 1062 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1062.0 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 St. Louis and Ozarks 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.

(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 a proposed marketing agreement and a proposed order regulating the handling of milk in the St. Louis-Ozarks marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order 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 are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order 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;

(4) All milk and milk products handled by handlers, as defined in the order,

are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 2.5 cents per hundredweight or such amount not to exceed 2.5 cents per hundredweight as the Secretary may prescribe, with respect to:

(i) Producer milk (including that received from a cooperative association as a handler pursuant to § 1062.8(d)) and such handler's own production;

(ii) Other source milk allocated to Class I milk pursuant to § 1062.46(a) (3) and (7) and the corresponding steps of § 1062.46(b); and

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the St. Louis-Ozarks marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as follows:

The provisions of the proposed marketing agreement and order contained in the revised recommended decision issued by the Deputy Administrator on August 27, 1968, and published in the FEDERAL REGISTER on August 30, 1968 (33 F.R. 12232; F.R. Doc. 68-10518), shall be and are the terms and provisions of this order, and are set forth in full herein subject to the following revisions:

1. Section 1062.6 is revised.
2. In § 1062.12, subparagraphs (a) (1) and (c) (1) are revised.
3. In § 1062.14, subparagraph (c) (5) is revised.
4. In § 1062.22, paragraph (1) is revised.
5. In § 1062.44, paragraph (c) and subdivision (d) (3) (v) are revised.
6. In § 1062.46, subdivisions (a) (4) (i) (b) and (a) (8) (iii) are revised.
7. Section 1062.53 is revised.
8. In § 1062.71, paragraph (1) is revised.
9. Section 1062.73 is revised.
10. Section 1062.82 is revised.
11. In § 1062.84, subparagraph (b) (2) is revised.
12. In § 1062.88, paragraph (c) is revised.
13. In § 1062.89, subparagraph (a) (3) is revised.

DEFINITIONS

§ 1062.1 Act.

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

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.

§ 1062.2 Secretary.

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

§ 1062.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1062.4 Person.

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

§ 1062.5 Cooperative association.

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

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

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1062.6 St. Louis-Ozarks marketing area.

"St. Louis-Ozarks marketing area", hereinafter called the marketing area, means all the territory within the designated military reservations, the corporate limits of the cities and the counties enumerated below:

ZONE I**(MISSOURI COUNTIES)**

Barry.	Ozark.
Christian.	St. Charles.
Crawford.	St. Louis.
Douglas.	Stone.
Franklin.	Taney.
Greene.	Warren.
Howell.	Webster.
Jefferson.	Washington.
Laclede.	Wright.
Lawrence.	

and the city of St. Louis, Mo., Fort Leonard Wood Military Reservation in Missouri, and the territory within Scott Military Reservation, East St. Louis, Centerville, Canteen, and Stites Townships, and the city of Belleville, all in St. Clair County, Ill.

ZONE II**(MISSOURI COUNTIES)**

Cape Girardeau.	Perry.
Bollinger.	Ste. Genevieve.
St. Francois.	

ZONE III**(ARKANSAS COUNTIES)**

Benton.	Marion.
Boone.	Washington.

§ 1062.7 Producer.

"Producer" means any person (other than a producer-handler as defined in any order including this part issued pursuant to the Act, or a person who is a producer under the terms of another order issued pursuant to the Act) who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(a) Received at a pool plant (excluding milk received as a diversion from

another order plant which is allocated to Class II pursuant to § 1062.46(a)(4)(iii)); or

(b) Diverted as producer milk pursuant to § 1062.14.

§ 1062.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant of another handler to a nonpool plant for the account of such association;

(d) Any cooperative association with respect to producer milk transferred from the producer's farm tank to a tank truck owned and operated by or under contract to such association for delivery to a pool plant if prior to delivery the operator of the pool plant gives notice in writing to both the market administrator and the association of his intention to purchase such milk on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples;

(e) A producer-handler, or any person who operates an other order plant described in § 1062.61.

§ 1062.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production, fluid milk products from pool plants of other handlers, packaged fluid milk products from other order plants; and receipts of nonfluid milk products are used only to fortify fluid milk products; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1062.10 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

§ 1062.11 Supply plant.

"Supply plant" means a plant which qualifies as a pool plant pursuant to § 1062.12(c) or from which fluid milk products, acceptable to a duly constituted health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

§ 1062.12 Pool plant.

"Pool plant" means:

(a) Any distributing plant, other than that of a producer-handler or one described in § 1062.61, which:

(1) Has disposition during the month of fluid milk products on routes and in packaged form to pool distributing plants, which, after subtraction of the quantity of packaged fluid milk products received from other pool plants, is equal to at least 50 percent of such plant's total receipts of Grade A fluid milk products from dairy farmers (including milk diverted by the plant operator), supply plants and cooperative associations as handlers pursuant to § 1062.8(d), exclusive of packaged fluid milk products received from other pool plants, and has route disposition in the marketing area in an amount equal to 10 percent or more of such receipts or an average of not less than 7,000 pounds per day, whichever is less; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in subparagraph (1) of this paragraph;

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and cooperative associations in their capacity as a handler pursuant to § 1062.8(d) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts (or held pool supply plant status under the St. Louis or Ozarks orders) during each of the months of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments;

(c) Any plant which is operated by or under contract to a cooperative association, or a federation of cooperatives, if:

(1) The operator of such plant(s) requests pool status, and 50 percent or more of all the Grade A milk from farms of the member producers of such cooperative or federation including milk delivered by the cooperative as a handler pursuant to § 1062.8(d) has been shipped to and physically received at pool distributing plants during the current month or the previous 12-month period ending with the current month, either directly from producer member farms or by transfer from such association plant(s) (For this purpose the shipments of producer members in preceding months shall be considered to include shipments of producer members under the Ozarks and St. Louis orders if such producers were members of the same cooperative or of a cooperative merged with the cooperative currently operating the plant.); and

(2) Such a plant does not qualify during the month as a "pool plant" under another market pool order issued pursuant to the Act by making shipments of milk to plants which qualify as "pool plants" under such other order; or

(3) Such plant meets the requirements of subparagraph (2) of this paragraph and met the requirements of subparagraph (1) of this paragraph in the preceding month; and

(d) Any plant which qualified as a pool plant under the Ozarks order or St. Louis order during the month preceding the effective date of this order shall continue as a pool plant under this part for the first month this order is effective unless the operator requests that it be a nonpool plant and it fails to qualify pursuant to paragraph (a), (b), and (c) of this section.

§ 1062.13 Nonpool plant.

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

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

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

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has route disposition of fluid milk products labeled Grade A in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1062.14 Producer milk.

"Producer milk" means milk produced by producers which is received and accounted for as follows:

(a) By the operator of a pool plant (including a cooperative association) with respect to milk:

(1) Received at the pool plant from producers or from a cooperative association as a handler pursuant to § 1062.8(d), but excluding milk received as a diversion from another order plant which is allocated to Class II pursuant to § 1062.46(a) (4) (iii);

(2) Diverted by the operator of the pool plant to another pool plant or to a nonpool plant subject to the conditions of paragraph (c) of this section;

(b) By a cooperative association with respect to milk:

(1) Which it receives from producers as a handler diverting the milk pursuant to § 1062.8(c), subject to the conditions of paragraph (c) of this section; and

(2) Which it receives from producers as a handler pursuant to § 1062.8(d) and which:

(i) Is delivered to a pool plant of another handler; or

(ii) Is not so delivered and constitutes shrinkage pursuant to § 1062.41(b) (10) or Class I shrinkage.

(c) Milk may be diverted by the operator of a pool plant or by a cooperative association pursuant to the following conditions with respect to each producer:

(1) By the operator of a pool plant to another pool plant(s) for not more days of production of producer milk than is physically received at the pool plant from which diverted;

(2) By the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.8(c) to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during each of the months of March through August and for not more days of production of producer milk than is physically received at pool plants (less the number of days production diverted pursuant to subparagraph (3) of this paragraph) during each of the months of September through February.

(3) By the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.8(c) as Class II milk to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act for not more days of production of producer milk than is physically received at pool plants less the number of days production diverted pursuant to subparagraph (2) of this paragraph, if such milk is not fully subject to the pricing and pooling provisions of such other order;

(4) For pricing purposes, milk diverted pursuant to subparagraphs (2) and (3) of this paragraph to a plant located more than 120 miles from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide) or milk diverted pursuant to subparagraph (1) of this paragraph, shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

(5) For pricing purposes, milk diverted pursuant to subparagraph (2) or (3) of this paragraph to a plant located 120 miles or less from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be deemed to be received at the location of the plant from which diverted.

§ 1062.15 Other source milk.

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

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

(1) Fluid milk products received from pool plants;

(2) Producer milk;

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

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

and any disappearance of nonfluid milk products not otherwise accounted for.

§ 1062.16 Fluid milk products.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, milk drinks (plain or flavored), fortified milk or skim milk (including "dietary milk products"), reconstituted milk or skim milk, sour cream and sour cream mixtures labeled Grade A, cream or any mixture in fluid form of milk or skim milk and cream (except frozen or aerated cream, ice cream or frozen dessert mixes, eggnog, sour cream or sour cream mixtures not labeled Grade A, dips not labeled Grade A, and sterilized milk and milk products hermetically sealed in metal or glass containers and so processed either before or after sealing so as to prevent microbial spoilage).

§ 1062.17 Route disposition.

"Route disposition" or "disposed of on routes" means any delivery of a fluid milk product from a distributing plant to a retail or wholesale outlet (including any delivery through a vendor, or a sale in packaged form from a plant or plant store) except a delivery to another plant or to commercial food establishments pursuant to § 1062.41(b) (4).

§ 1062.18 Chicago butter price.

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

MARKET ADMINISTRATOR

§ 1062.20 Designation.

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

§ 1062.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend to the Secretary amendments thereto.

§ 1062.22 Duties.

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

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of funds provided by § 1062.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1062.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports, pursuant to §§ 1062.30 through 1062.32; or

(2) Made payments pursuant to §§ 1062.80 through 1062.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and mail to each handler at his last known address the prices determined for each month as follows:

(1) On or before the fifth day of each month the minimum price for Class I milk computed pursuant to § 1062.51(a) and the Class I butterfat differential pursuant to § 1062.52(a), both for the current month; and the minimum price for Class II milk computed pursuant to § 1062.51(b) and the Class II butterfat differential pursuant to § 1062.52(b), both for the previous month; and

(2) On or before the 10th day of each month the uniform price computed pursuant to § 1062.71 and the butterfat differential computed pursuant to § 1062.81, both for the previous month;

(j) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information;

(k) On or before the 10th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1062.8(d) in each class by each

handler who in the previous month received milk from members of such cooperative association;

(l) Whenever required for purpose of allocation of receipts from other order plants pursuant to § 1062.46(a)(8) and the corresponding step of § 1062.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are assigned and thereafter any change in such classification required to correct errors disclosed in verification of such report. In the case of milk received from an other order market pool plant the classification of such milk shall be the quantities assigned to Class I milk and Class II milk pursuant to § 1062.46. In the case of milk received from an other order handler pool plant, the market administrator shall report the allocation of skim milk and butterfat in the same percentage as the market-wide estimate for all handlers pursuant to paragraph (1) of this section.

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

REPORTS, RECORDS, AND FACILITIES

§ 1062.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month reports for such month shall be made to the market administrator in the detail and on forms prescribed by the market administrator:

(a) Each handler described in § 1062.8(a) shall report with respect to each of his pool plants as follows:

(1) Receipts of skim milk and butterfat in:

(i) Producer milk received both from producers and from cooperative associations acting as handlers pursuant to § 1062.8(d);

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

(iii) Other source milk, with the identity of each source;

(2) Opening inventories of fluid milk products;

(3) The utilization or disposition of all quantities required to be reported, including separate statements of quantities;

(4) Of fluid milk products on hand at the end of the month;

(ii) Of route disposition of fluid milk products in the marketing area; and

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

(b) Each handler described in § 1062.8(b) shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those of producer milk; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1062.8(c) and (d), as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1062.8(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler pursuant to § 1062.8(d); and

(4) Such other information as the market administrator may require.

§ 1062.31 Payroll reports.

On or before the 20th day after the end of the month each handler described in § 1062.8(a), for each of his pool plants, and each cooperative association with respect to milk for which it is the handler pursuant to § 1062.8(c) and (d) shall submit to the market administrator the producer payroll and each handler making payments pursuant to § 1062.82(a) his payroll for dairy farmers delivering Grade A milk, which shall show for each producer or dairy farmer:

(a) The name and address;

(b) The total pounds of milk received and the average butterfat content thereof;

(c) The total pounds of milk diverted and the location of the plant to which diverted; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1062.32 Other reports.

(a) Each producer-handler and each handler exempt from regulation pursuant to § 1062.61 shall make reports to the market administrator at such time and in such manner as the market administrator may request; and

(b) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to § 1062.80(c) shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 25th of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1062.86(c) and (d).

§ 1062.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all fluid milk products on hand at the beginning and end of each month.

§ 1062.34 Retention of records.

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

CLASSIFICATION**§ 1062.40 Skim milk and butterfat to be classified.**

All skim milk and butterfat required to be reported pursuant to § 1062.30 shall be classified by the market administrator pursuant to the provisions of §§ 1062.41 through 1062.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1062.41 Classes of utilization.

Subject to the conditions set forth in §§ 1062.43 through 1062.46 the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) Any fluid milk product fortified with added solids shall be Class I milk in an amount equal only to the weight of an equal volume of a like unmodified

product of the same butterfat content; and

(ii) Any fluid milk product classified pursuant to subparagraphs (2), (3), and (4) of paragraph (b) of this section; and

(2) Not specifically accounted for as Class II milk; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products disposed of for livestock feed;

(3) In fluid milk products dumped after notification to and opportunity for verification as may be requested by the market administrator;

(4) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(5) Used to produce frozen cream;

(6) In inventory of fluid milk products on hand at the end of the month;

(7) In that portion of "fortified" fluid milk products not classified as Class I milk pursuant to paragraph (a) (1) (i) of this section;

(8) In shrinkage of skim milk and butterfat, respectively, assigned at each pool plant pursuant to § 1062.42(b) (1), but not to exceed the following:

(i) Two percent of producer milk excluding milk received from a cooperative as a handler pursuant to § 1062.8(d); plus

(ii) One and a half percent of receipts of milk in bulk tank lots from other pool plants; plus

(iii) One and a half percent of milk received from a cooperative association which is a handler for such milk pursuant to § 1062.8(d); plus

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

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

(vi) One and a half percent of milk disposed of in bulk tank lots to other milk plants, except, in the case of milk diverted by the pool plant operator to a nonpool plant, if the operator of the plant to which the milk is diverted purchases such milk on the basis of farm weights and butterfat tests from samples taken at the farm, the applicable percentages shall be 2 percent;

(9) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1062.42(b) (2); and

(10) In shrinkage of skim milk and butterfat, respectively, of milk for which a cooperative association is the handler pursuant to § 1062.8 (c) or (d), but not in excess of one-half percent of such receipts, exclusive of receipts for which farm weights and butterfat samples are used as the basis of receipt at the plant to which delivered.

§ 1062.42 Assignment of shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

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

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between:

(1) Skim milk and butterfat, respectively, in the receipts included in § 1062.41(b) (8); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of that specified in § 1062.41(b) (8).

§ 1062.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1062.41 through 1062.46, §§ 1062.50 through 1062.54, and §§ 1062.70 through 1062.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1062.8(d) shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1062.70. For purposes of location adjustment pursuant to § 1062.53 and administrative expense pursuant to § 1062.88, such milk shall be treated as producer milk of the receiving handler; and

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

§ 1062.44 Transfers.

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

(a) At the utilization indicated by the operators of both plants in their reports pursuant to § 1062.30, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1062.46(a) (8) and the corresponding step of § 1062.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1062.46(a) (3) and the corresponding step of § 1062.46(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the handler transferring to the pool plant of another handler received during the month other source milk to be allocated pursuant to § 1062.46(a) (7) and (8) and the corresponding steps

of § 1062.46(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler under this or any other order or transferred or diverted to a plant exempt pursuant to § 1062.60(b);

(c) As Class I milk, if transferred in bulk or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall, St. Louis, Mo., except that cream so transferred may be classified as Class II milk if prior written notice is given to the market administrator and each container is labeled by the transferor as "non-Grade A" cream for manufacturing only;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall, St. Louis, Mo., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1062.30 for the month within which such transaction occurred;

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

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

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

(ii) Any Class I milk utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts

from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

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

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

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this paragraph the same conditions of audit, classification, and allocation shall apply; and

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

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

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

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

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

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

(6) If the form in which any fluid milk products is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1062.41.

§ 1062.45 Computation of skim milk and butterfat in each class.

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1062.30 for each pool plant of each handler;

(b) Compute the pounds of skim milk and butterfat in each class:

(1) At each pool plant of each handler;

(2) In milk diverted from another handler's plant to a nonpool plant by a cooperative association pursuant to § 1062.8(c); and

(3) In milk accounted for by a cooperative association as shrinkage of milk handled by the association pursuant to § 1062.8(d); and

(c) In the case of the operator of more than one plant, allocation of producer milk to Class I and Class II milk pursuant to § 1062.46 (a) and (b) shall be on an individual plant basis unless pursuant to such allocation fluid milk products are assigned pursuant to § 1062.46(a) (7) or (8), and the corresponding steps of § 1062.46(b), in which case allocation pursuant to § 1062.46 shall be based upon the combined receipts and utilization (less transfers between pool plants of the same handler) at all plants of the handler (i.e., on a system basis); and

(d) Compute for each cooperative association reporting pursuant to § 1062.30 (c) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1062.14(b) (1) and (2) (ii) in each class. The amount so determined shall be those used for computation pursuant to § 1062.46(c).

§ 1062.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1062.45, the market administrator shall determine the classification of producer milk for each handler (or pool plant, if applicable) as follows:

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

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk classified as Class II milk pursuant to § 1062.41(b) (8);

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

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

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

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

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

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

(iii) Receipts of fluid milk products from a producer-handler, as defined un-

der this or any other Federal order or from a plant exempt pursuant to § 1062.60(b);

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II milk but not in excess of such quantity:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II milk utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II milk utilization was requested by the operator of such plant and the handler;

(iii) The pounds of skim milk in receipts of milk by diversion from an other order plant for which Class II utilization was requested by the receiving handler and by the diverting handler under the other order, but not in excess of the pounds of skim milk remaining in Class II milk;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

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

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II milk, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II milk utilization of skim milk announced for the month by the market administrator pursuant to § 1062.22(d) or the percentage that Class II milk utilization remaining is of the total remaining utilization of skim milk of the handler;

(ii) From Class I milk, the remaining pounds of such receipts; and

(iii) The quantity of skim milk, if any, subtracted pursuant to subdivision (ii) of this subparagraph shall be assigned pro rata to the receipts from other order plants under market pool orders and under handler pool orders which were

assigned pursuant to subdivisions (i) and (ii) of this subparagraph (the skim milk subtracted pursuant to subdivision (i) of this subparagraph shall be subject to the same proration);

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products transferred or diverted from pool plants of other handlers (or other pool plants, if applicable) according to the classification assigned pursuant to § 1062.44(a); and

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

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1062.45(d) for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1062.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices through April 1969, the basic formula price shall not be less than \$4.33.

§ 1062.51 Class prices.

Subject to the provisions of §§ 1062.52 and 1062.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price at plants located in Zone I shall be the basic formula price for the preceding month plus \$1.40, and plus 20 cents through April 1969.

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

§ 1062.52 Handler butterfat differentials.

If the average butterfat test of Class I or Class II milk as calculated pursuant to § 1062.46 is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential computed by multiplying the Chicago butter price by the applicable factor listed below, and rounding to the nearest one-tenth cent;

(a) *Class I milk.* Multiply such price for the preceding month by 0.12; and

(b) *Class II milk.* Multiply such price for the current month by 0.115.

§ 1062.53 Location differentials to handlers.

For milk received from producers or from a cooperative association pursuant to § 1062.8(d) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraphs (e) and (f) of this section or for other source milk to which a location adjustment is applicable, the price at such pool plant located:

(a) In Zone I of the marketing area, shall be the price computed pursuant to § 1062.51(a) except as provided in paragraph (c) of this section.

(b) In Zone II of the marketing area, shall be the zone I price plus a location adjustment of 15 cents;

(c) In Zone III of the marketing area, shall be the Zone I price plus a location adjustment of 17 cents.

(d) In Zone A (the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas), for any plant which does not dispose of fluid milk products in consumer type packages and which is qualified as a pool plant pursuant to § 1062.12 (b) or (c) or a supply plant which qualifies pursuant to § 1062.12(d) shall be the price pursuant to § 1062.51(a) less 27 cents.

(e) Outside the marketing area and Texas County, Mo., and more than 30 miles from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer shall be the Class I price applicable in Zone I, less a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer (the distance to be by shortest hard-surfaced highway as determined by the market administrator);

(f) In the case of transfers between plants, location adjustment shall apply at the transferor plant with respect to a quantity of the transfer calculated as follows: From total Class I milk utilization at the transferee plant subtract Class I milk assigned to receipts from other order plants and unregulated supply plants, and 95 percent of the receipts from producers and from cooperative associations as handlers pursuant to § 1062.8(d); and assign the remaining Class I milk to receipts from other pool plants beginning with receipts from plants with plus location adjustment, then to receipts from plants with no location adjustment, and then in sequence to receipts from plants at which the smallest minus adjustments apply.

(g) For purposes of calculations pursuant to this section, the following assignments of Class I utilization to pool plants will apply when allocation pursuant to § 1062.46 is performed on a system basis:

(1) Allocations to Class I pursuant to each of the following subparagraphs of § 1062.46 (a) and (b), will be assigned to the plant(s) at which any milk of the respective category was received or was

in inventory, pro rata in each case to the respective quantities of such milk at each of such plants: § 1062.46 (a) and (b) (2), (3), (5), (7), and (8); and

(2) If Class I utilization pursuant to § 1062.45(b)(1) remaining at a pool plant after subtraction of the quantities assigned pursuant to subparagraph (1) of this paragraph is greater than receipts from producers and cooperative associations as handlers pursuant to § 1062.8(d) and other pool plants, Class I utilization equal to the amount of the excess will be assigned to the pool plant(s) of the handler at which an equivalent amount of producer milk (including milk from a cooperative association pursuant to § 1062.8(d)) is not otherwise assigned to Class I, and at which the rate of location adjustment most nearly corresponds to that of the plant with such excess Class I utilization. The amount so assigned to another pool plant shall be added to Class I utilization pursuant to § 1062.45(b)(1) in computing the assignment of location adjustments to receipts at such plant pursuant to paragraph (e) of this section.

§ 1062.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1062.60 Exemptions.

(a) *Producer-handler.* Sections 1062.40 through 1062.46, §§ 1062.50 through 1062.54, §§ 1062.61, 1062.62, 1062.70 through 1062.72, and §§ 1062.80 through 1062.89 shall not apply to a producer-handler; and

(b) *Governmental agency.* None of the provisions of this part except §§ 1062.13, 1062.44(b), and 1062.46(a)(3) shall apply to a plant operated by a governmental agency.

§ 1062.61 Plants subject to other Federal orders.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in such other Federal order marketing area is greater than was so disposed of in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing

area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in this marketing area is greater than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) A supply plant meeting the requirements of § 1062.12(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

§ 1062.62 Obligations of handlers operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1062.30 and 1062.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1062.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or another order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or any other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1062.70(e) and a credit in the amount specified in § 1062.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1062.30 and 1062.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1062.12(b) with agreement of the operator of such plant that the market administrator may examine

the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

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

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

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

(b) An amount computed as follows:

(1) Determine the respective amounts of route disposition (other than to pool plants) of skim milk and butterfat disposed of in the marketing area;

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

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

(4) From the value of such milk at the Class I milk price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II milk price).

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1062.70 Computation of the net pool obligation of each pool handler.

The net pool obligation at each pool plant (or of each pool handler if allocation is on a system basis) and of each cooperative association as a handler pursuant to § 1062.8(c) and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1062.46(c), by the applicable class prices (adjusted pursuant to §§ 1062.52 and 1062.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1062.46(a)(10) and the corresponding step of § 1062.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II milk price for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1062.46(a)(5) and the corresponding step of § 1062.46(b);

(d) Add an amount equal to the difference between the value at the Class I milk price applicable at the pool plant and the value at the Class II milk price,

with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1062.46(a)(3) and the corresponding step of § 1062.46(b);

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1062.46(a)(7) and the corresponding step of § 1062.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from a handler pool other order plant subtracted from each class pursuant to § 1062.46(a)(8) (iii), and the corresponding step of § 1062.46(b), at the applicable class prices pursuant to this part adjusted for location of the plant from which received.

§ 1062.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.70 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.80 and 1062.84 for the preceding month;

(b) Deduct the amount of the plus differentials and add the amount of the minus differentials, which are applicable pursuant to § 1062.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1062.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.70 (e) and (f);

(f) Subtract not less than four cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

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

(h) From the remainder subtract during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of the total amount of producer milk included in these computations. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section (money in the producer settlement fund retained for such purpose under the St. Louis and Ozarks orders shall be so applied pursuant to this paragraph);

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

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

§ 1062.72 Notification of handlers.

On or before the 10th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 1062.46 and 1062.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 1062.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 1062.80 and 1062.84; and

(e) The amount to be paid by such handler pursuant to §§ 1062.87 and 1062.88.

§ 1062.73 Overdue accounts.

Any unpaid obligation of a handler pursuant to § 1062.84, § 1062.86(a), § 1062.87(a), or § 1062.88 shall be increased one-half of one percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

PAYMENTS

§ 1062.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price computed pursuant to § 1062.71 for such producer's deliveries of milk, adjusted by the butterfat and location differentials computed pursuant to §§ 1062.81 and

1062.82, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1062.85, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the last day of each month, to each producer:

(1) To whom payment is not made pursuant to paragraph (c) of this section; and

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than the Class II price for 3.5 percent milk for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 25th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which is received from members, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers; and

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1062.8(d), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b)(2) of this section; and

(2) In making final settlement, the value of such milk at the applicable uniform price, less payment made pursuant to subparagraph (1) of this paragraph.

(e) On or before the 14th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials.

§ 1062.81 Butterfat differentials to producers.

In making payments pursuant to § 1062.80(a), the uniform prices per hundredweight shall be adjusted by adding or subtracting for each one-tenth of 1 percent that the average butterfat content is above or below 3.5 percent a butterfat differential equal to the average of the butterfat differentials determined pursuant to § 1062.52 weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest one-tenth of a cent.

§ 1062.82 Location differentials to producers and on nonpool milk.

(a) For producer milk received at pool plants located outside Zone I and more than 30 miles from St. Louis city hall or the city hall in Springfield, Mo., whichever is nearer, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1062.53 (b), (c), and (e); and

(b) For purposes of computations pursuant to §§ 1062.84 (b) (2) and 1062.85, the "weighted average price" shall be adjusted at the rates set forth in § 1062.53 (b), (c), and (e) applicable at the location of the nonpool plant(s) from which the milk was received.

§ 1062.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1062.62, 1062.84, and 1062.86, and out of which he shall make all payments to handlers pursuant to §§ 1062.85 and 1062.86. The market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1062.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts (for each pool plant, if applicable) specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1062.70 for such handler;

(b) The sum of:

- (1) The value of such handler's producer milk at the applicable uniform prices specified in § 1062.80 excluding in the case of a cooperative association as a handler pursuant to § 1062.8(d) milk it delivered to a pool plant; and

- (2) The value at the "weighted average" price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II milk price) with respect to other source milk for which a value is computed pursuant to § 1062.70 (e) and (f) plus in the case of milk received from a handler pool market the amount of the location differential at the location of the plant from which received applied to the quantity of Class II milk reported pursuant to § 1062.22(m) which is in excess of the Class II milk pursuant to § 1062.70(f) except that for milk received from a handler pool market the value applicable pursuant to this subparagraph shall not exceed the value for such quantity calculated pursuant to § 1062.70(f).

§ 1062.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1062.84(b) exceeds

the amount computed pursuant to § 1062.84(a). The market administrator shall offset any payment due any handler against payments due from such handler pursuant to §§ 1062.84, 1062.86, 1062.87, and 1062.88. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1062.86 Adjustment of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1062.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall within 30 days of the date of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1062.85, the market administrator shall promptly make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1062.80, no handler shall be deemed to be in violation of § 1062.80 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

§ 1062.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1062.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such money shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make

such deductions from the payments to be made directly to producers pursuant to § 1062.80(a) as are authorized by such producers, and on or before the 15th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

§ 1062.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 2.5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that received from a cooperative association as a handler, pursuant to § 1062.8(d)) and the handler's own production; and

(b) Other source milk allocated to Class I pursuant to § 1062.46(a) (3) and (7) and the corresponding steps of § 1062.46(b); and

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

§ 1062.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money:

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

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

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

(b) If a handler falls or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so

notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

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

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

MISCELLANEOUS PROVISIONS

§ 1062.90 Effective time.

The provisions of this part or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 1062.91.

§ 1062.91 Suspension or termination.

Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the Act cease to be in effect.

§ 1062.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate;

(b) The market administrator or such other persons as the Secretary may designate, shall:

(1) Continue in such capacity until removed;

(2) From time to time account for all receipts and disbursement and when so directed by the Secretary deliver all funds on hand, together with the books

and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1062.93 Liquidation after suspension or termination.

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

§ 1062.94 Agents.

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

§ 1062.95 Separability of provisions.

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

[F.R. Doc. 68-11552; Filed, Sept. 20, 1968; 8:50 a.m.]

[7 CFR Part 1136]

[Docket Nos. AO 309-A10, AO 309-A14]

MILK IN GREAT BASIN MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Great Basin marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington,

D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Salt Lake City, Utah, on August 5, 1968, pursuant to notice thereof which was issued July 31, 1968 (33 F.R. 10881).

A hearing (Doc. No. AO 309-A10) was previously held in Salt Lake City on February 2 and 3, 1967, pursuant to the notice which was issued January 26, 1967 (32 F.R. 1054).

The material issues on the record of the February 1967 hearing (Doc. No. AO 309-A10) related to pool plant qualifications, diversion provisions and the classification and pricing of reserve milk.

The material issues on the record of the August 5, 1968, hearing (Doc. No. AO 309-A14) relate to:

1. Elimination of the Class I price supply-demand adjustment.
2. Classification of sweetened and flavored cream used in the manufacture of bakery products.

Findings and conclusions. The proposals considered at the February 1967 hearing concerned issues which involve the seasonality of milk production, prospects for in-area and out-of-area Class I sales during 1967, and the prices paid by cheese plants in the surplus disposal area for the market.

The proponents' goal at the hearing was to have the order amended to reflect the then current marketing conditions. Statistical data introduced into the hearing record reflected these conditions through 1966. Data for the first quarter of 1967 were not available at the time of the hearing.

Following the close of the hearing and before a decision could be issued on the matters involved, it became evident that supply conditions in the market had changed drastically. It therefore became impractical to issue a decision on the basis of evidence introduced into the hearing record.

Since the hearing record does not afford a current basis for action, it is concluded that the proceeding which was begun in this matter of January 26, 1967 (32 F.R. 1054), should be terminated.

The following findings and conclusions on the material issues considered at the August 5, 1968, hearing are based on the record thereof:

1. *Supply-demand adjustor.* The supply-demand adjustor provisions of the Great Basin order should be deleted.

The Great Basin order presently contains a supply-demand provision which adjusts the Class I price each month according to the relationships of producer receipts to the quantity of such receipts used in Class I for the second and third months preceding the pricing month. Such Class I utilization percentages are

compared with seasonally adjusted "standard" utilization percentages ("norms") for which the annual average mid-point is 153.8 percent. The applicable norm for each 2-month period is expressed as a minimum and maximum percentage, with a 10-point range within which no adjustment occurs.

The two cooperative associations representing most of the producers on the market proposed elimination of the supply-demand adjutor from the order.

Supply-demand adjustments to the Class I prices in recent years have not been in keeping with the purpose which the supply-demand formula mechanism is designed to achieve.

The monthly standard utilization percentages or "norms" are designed to reflect, as nearly as possible, the normal and desired seasonal relationship of producer receipts to the utilization of such receipts as Class I milk. In the event the seasonal supply and demand relationship of the market shifts and is no longer accurately reflected by such norms, a seasonal bias would then be injected into the computation of the supply-demand adjustments which would have no relationship to current disequilibria in the relationship of fluid milk supply and sales. Such a change in seasonality has occurred with respect to the milk supply and demand situation in the Great Basin market.

This situation is further aggravated by the fact that a significant volume of the fluid milk production normally associated with this market is frequently moved to the Eastern Colorado, and occasionally to the Central Arizona markets. The milk so moved is usually pooled under the order market where received. When such milk production is not shipped off the market it is disposed of to plants affiliated with the Great Basin order and usually is pooled thereunder. This on-and-off market pooling situation, proponents contend, has contributed to the instability of price adjustments brought about by the supply-demand formula.

An analysis of monthly supply-demand adjustments resulting from the supply-demand pricing formula for the period 1962 through 1967 reveals that adjustments to Class I prices for the generally flush production period of April through June during this time have averaged a minus 2½ cents per hundredweight. The average adjustment for the short production months of October through December for the comparable period, amounted to a minus 5¼ cents per hundredweight. It is apparent, therefore, that the present norms set forth in the supply-demand formula are not reflective of the current seasonal production and Class I sales pattern in this market.

The deletion of the supply-demand adjutor from the order will not only eliminate the contraseasonality which has developed in the Class I price but it also will bring the Class I price for this market into closer alignment with the Class I prices in surrounding Federal order markets, particularly the Central Arizona and Rio Grande Valley markets.

2. *Classification of a bakery cream product.* A flavored cream product containing at least eight percent (by product weight) of sugar which is disposed of to a commercial bakery solely for processing into bakery products should be classified as Class III.

A handler operating a pool distributing plant regulated under the order proposed a reclassification from Class I to Class III of flavored sweetened cream disposed to bakeries. This product is a mixture of cream (36 percent butterfat), and sugar in about a seven and one-half to one ratio, respectively, to which vanilla flavoring has been added. It is presently being processed in the proponent's plant and distributed to bakeries located on the premises of a number of grocery supermarkets for use in the manufacture of bakery products.

A sweetened cream mixture disposed of in the proportions indicated by the proponent handler would not be suitable for use as a beverage and hence could not be substituted for fluid Grade A cream in a form designated under this order as a fluid milk (Class I) product.

Milk or cream utilized in the processing of bakery products is not required by local health authorities to meet the Grade A standards. Thus, designation of this product as Class III will encourage the use of Grade A producer milk in the manufacture of bakery products in lieu of alternative ungraded milk products or substitute ingredients containing vegetable fats which are readily available to food processors for the same usage. This will provide an additional use for cream which is surplus to the fluid requirements of the market.

It is not intended, however, that the lowest valued use classification (Class III) be assigned a cream product containing only token amounts of sugar and flavoring additives. Proponent witness indicated a sugar content of the finished product amounting to around 12 percent by weight of the total product. To permit some flexibility in the ingredient formula it is concluded that such classification apply to a sweetened cream mixture so disposed with a minimum sugar content of eight percent by weight. This will provide a reasonable standard to accommodate this matter. The containers of such cream-sugar product, when disposed of to commercial bakeries, should be clearly labeled as bakery cream.

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

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

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

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

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

1. Section 1136.50 is amended by revising paragraph (a) to read as follows:

§ 1136.50 Class prices.

(a) *Class I milk price.* The price for Class I milk shall be the basic formula price for the preceding month plus \$2.05, plus 20 cents through April 1969.

2. Section 1136.41(c) is amended by deleting the word "and" in subparagraph (7); changing the period to a semicolon at the end of subparagraph (8) and adding the word "and" thereafter; and adding a new subparagraph (9) to read as follows:

§ 1136.41 Classes of utilization.

(c) *Class III milk.* * * *
(9) In the form of a flavored cream-sugar product containing at least 8 percent by weight of sugar, which product is disposed of to a commercial bakery solely for the purpose of processing into bakery products. The containers utilized in such disposition shall be clearly labeled as bakery cream.

Signed at Washington, D.C., on September 17, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[P.R. Doc. 68-11472; Filed, Sept. 20, 1968;
8:45 a.m.]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

RULES OF PRACTICE IN PATENT CASES

Increase of Miscellaneous Fees and Charges

The time for submission of written data, views, arguments, or suggestions for consideration in connection with the proposed revision of Section 1.21 of Title 37 of the Code of Federal Regulations as published in the FEDERAL REGISTER of August 3, 1968 (33 F.R. 11092), is extended to November 15, 1968.

EDWARD J. BRENNER,
Commissioner of Patents.

Approved: September 18, 1968.

JOHN F. KINCAID,
Assistant Secretary for
Science and Technology.

[P.R. Doc. 68-11561; Filed, Sept. 20, 1968;
8:50 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 516]

RECORDS TO BE KEPT BY EMPLOYERS

Retail or Service Establishment Commission Employees

The Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201), in its section 7(i) exempts from the overtime provisions of the Act certain commission employees of retail or service establishments. The Fair Labor Standards Amendments of 1966 (Public Law 89-601) amends section 7(i) by adding the method of determining the proportion of compensation which represents commissions. In order to conform the record-keeping requirements under the Act to the amended section 7(i), it is proposed under authority in the Act, Reorganization Plan No. 6 of 1950 (3 CFR 1949-1953 Comp., p. 1004), and Secretary's Order No. 19-67 (32 F.R. 12980), to revise 29 CFR 516.16 to read as set out below.

Interested persons are invited to send written data, views, or argument concerning this proposal to the Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after this proposal is published in the FEDERAL REGISTER.

Section 516.16 of 29 CFR Part 516 is proposed to be revised to read as follows:

§ 516.16 Commission employees of a retail or service establishment exempt from overtime pay requirements pursuant to section 7(i) of the Act.

With respect to employees of a retail or service establishment who are exempt from the overtime pay requirements pursuant to the provisions of section 7(i), employers shall maintain and preserve payroll and other records, with respect to each and every such employee, containing all the information and data required by § 516.2(a) except subparagraphs (6), (8), (9), and (11), and in addition thereto:

(a) A symbol or letter placed on the payroll records identifying each employee who is paid pursuant to section 7(i).

(b) An indication each workweek whether the employee's regular rate of pay in such workweek (see 29 CFR 779.428 and 779.429) is in excess of one and one-half times the minimum hourly rate applicable to him under section 6 of the Act and that basic records are available and will be kept to demonstrate this fact.

(c) A copy of the agreement or understanding under which section 7(i) is utilized or, if such agreement or understanding is not in writing, a memorandum summarizing its terms including the basis of compensation (such as \$100 weekly draw against 5 percent commission on sales), and showing the applicable representative period and the date it was entered into and how long it remains in effect. Such agreements or understandings, or summaries may be individually or collectively drawn up.

(d) Total compensation paid to each employee each pay period (showing separately the amount of commissions and the amount of noncommission straight-time earnings).

(29 U.S.C. 211)

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

CLARENCE T. LUNDQUIST,
Administrator, Wage and Hour
and Public Contracts Divisions.

[P.R. Doc. 68-11538; Filed, Sept. 20, 1968;
8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 410]

[FRA Docket No. 1]

PROCEDURES FOR PRESCRIBING REGULATIONS

Notice of Proposed Rule Making

The purpose of this notice is to request public comment on procedures proposed for use in prescribing regulations under statutes administered by the Federal Railroad Administration.

The proposed rule would supersede the rule-making rules and procedures of the Interstate Commerce Commission, the Department of Commerce, and the Department of the Interior, which were adopted, confirmed and continued in effect by the Federal Railroad Administration on April 1, 1967 (32 F.R. 5612). They would establish one set of procedures for the issuance of all regulations of the Federal Railroad Administration except those governing the transportation of explosives and other dangerous articles under section 831-835 of title 18, United States Code. They would also apply to requests for approval of the discontinuance or modification of signal systems under 49 U.S.C. 26(b) in those situations where hearings are involved.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Office of the Chief Counsel, Federal Railroad Administration, 400 Sixth Street SW., Washington, D.C. 20591.

Communications received before October 25, 1968, will be considered before taking final action on the notice. All comments will be available for examination by interested persons at the Office of the Chief Counsel, both before and after the closing date for comments. The proposals contained in this notice may be changed in the light of comments received.

The proposed rule follows closely the rule-making procedures of the Office of the Secretary of Transportation (49 CFR Part 5) and other component units of the Department. It provides for general notice of proposed rule making, to be published in the FEDERAL REGISTER except in cases where the Administrator finds that notice is impractical, unnecessary, or contrary to the public interest, and except for interpretive rules, general statements of policy, and rules relating to Administration organization, procedure, or practices. The authority to conduct rule-making proceedings and to issue final rules may be delegated to any Bureau Director, the Chief Counsel, or the Railroad Safety Board.

The proposed rule also provides for the consideration of petitions for (1) rule-making, (2) exemption from adopted rules, (3) reconsideration of rules, and (4) extensions of time to comment on notices of proposed rule making.

Hearings will be held when required by statute or deemed necessary or desirable. Since none of the statutes administered by the Administration require hearings to be held on the record, sections 556 and 557 of title 5, United States Code (formerly sections 7 and 8 of the Administrative Procedure Act) do not apply to rule-making under the proposed rule. Any hearings held would be non-adversary with no formal pleadings and no adverse parties, and any resultant rule would not necessarily be based exclusively on the record of the hearing.

All final rules will be published in the FEDERAL REGISTER unless, in accordance with section 552(a) of title 5, United

States Code, actual and timely notice has been given to all persons subject to it.

Since this amendment relates to Administration organization, procedures, and practices, notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

This amendment is made under the authority of section 9 of the Department of Transportation Act (Public Law 89-670; 49 U.S.C. 1657), and the statutes cited in subsections (e) (1), (2), and (3) of section 6 of the Department of Transportation Act.

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations by adding the following new Part 410.

Issued in Washington, D.C., on September 18, 1968.

A. SCHEFFER LANG,
Administrator.

PART 410—RULE-MAKING PROCEDURES OF THE FEDERAL RAILROAD ADMINISTRATION

Subpart A—General

Sec.	
410.1	Applicability.
410.3	Initiation of rule making.
410.5	Participation by interested persons.
410.7	Regulatory docket.

Subpart B—Petitions for Rule Making or Exemptions

410.11	Filing of petitions.
410.13	Processing of petitions.

Subpart C—Procedures

410.21	General.
410.23	Contents of notices.
410.25	Petitions for extension of time to comment.
410.27	Consideration of comments received.
410.29	Additional rule-making proceedings.
410.31	Hearings.
410.33	Adoption of final rules.
410.35	Petitions for rehearing or reconsideration of a rule.
410.37	Proceedings on petitions for reconsideration.

AUTHORITY: The provisions of this Part 410 issued under secs. 6 and 9 of Public Law 89-670, 80 Stat. 937 and 944; 49 U.S.C. 1655 and 1657, and the statutes referred to in subsections 6(e) (1), (2), and (3) of Public Law 89-670.

Subpart A—General

§ 410.1 Applicability.

(a) This part prescribes general rule-making procedures that apply to the issue, amendment, and repeal of rules of the Federal Railroad Administration. It does not apply to the making of rules governing the transportation of explosives and other dangerous articles under sections 831-835 of title 18, United States Code.

(b) For the purposes of this part, "Administrator" means the Federal Railroad Administrator or the Deputy Administrator, or any of the following to whom the Administrator has delegated authority to conduct rule-making proceedings:

- (1) Any office or Bureau Director,
- (2) The Chief Counsel,
- (3) The Railroad Safety Board. Any of these officers or the Board may redelegate that authority to the head of any office who reports to that officer or the Board, as the case may be.

(c) Records relating to rule-making proceedings are available for inspection as provided in Part 7 of this subtitle.

§ 410.3 Initiation of rule making.

The Administrator initiates rule making on his own motion. However, in doing so, he may, in his discretion, consider the recommendations of other agencies of the United States and of other interested persons.

§ 410.5 Participation by interested persons.

Any person may participate in rule-making proceedings by submitting written information or views. The Administrator may also allow any person to participate in additional rule-making proceedings, such as informal appearances or hearings, held with respect to any rule.

§ 410.7 Regulatory docket.

(a) Records of the Federal Railroad Administration concerning rule-making actions, including notices of proposed rule making, comments received in response to those notices, petitions for rule making or exemption, petitions for rehearing or reconsideration, grants and denials of exemptions, denials of petitions for rule making, records of additional rule-making proceedings under § 410.29, and final rules are maintained in current docket form in the Office of Chief Counsel.

(b) Any person may examine any docketed material at that office and may obtain a copy of any docketed material upon payment of the prescribed fee.

Subpart B—Petitions for Rule Making or Exemptions

§ 410.11 Filing of petitions.

(a) Any person may petition the Administrator to issue, amend, or repeal a rule, or for a permanent or temporary exemption from any rule.

(b) Each petition filed under this section must:

(1) Be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20591;

(2) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(4) Contain any information and arguments available to the petitioner to support the action sought; and

(5) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 60 days before the proposed effective date of the exemption.

§ 410.13 Processing of petitions.

(a) *General.* Each petition received under § 410.11 is referred to the head of the office responsible for the subject matter of that petition. No public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Administrator determines that the petition contains adequate justification, he initiates rule-making action under Subpart C of this part or grants the exemption, as the case may be.

(c) *Denials.* If the Administrator determines that the petition does not justify initiating rule-making action or granting the exemption, he denies the petition.

(d) *Notification.* Whenever the Administrator determines that a petition should be granted or denied, the office concerned and the Office of the Chief Counsel prepare a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

Subpart C—Procedures

§ 410.21 General.

(a) Unless the Administrator finds, for good cause, that notice is impractical, unnecessary, or contrary to the public interest, a notice of proposed rule making is issued and interested persons are invited to participate in the rule-making proceedings with respect to each substantive rule.

(b) Unless the Administrator determines that notice and public rule-making proceedings are necessary or desirable, interpretive rules, general statements of policy, and rules relating to organization, procedure, or practice are prescribed as final without notice or other public rule-making proceedings.

(c) In his discretion, the Administrator may invite interested persons to participate in the rule-making proceedings described in § 410.29.

§ 410.23 Contents of notices.

(a) Each notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects or issues involved or the substance or terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 410.25 Petitions for extension of time to comment.

(a) Any person may petition the Administrator for an extension of time to submit comments in response to a notice of proposed rule making. The petition must be submitted in triplicate not later than three days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments.

(b) The Administrator grants the petition only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is in the public interest. If an extension is granted, it is granted as to all persons and is published in the FEDERAL REGISTER.

§ 410.27 Consideration of comments received.

All timely comments are considered before final action is taken on a rule-making proposal. Late filed comments may be considered so far as practicable.

§ 410.29 Additional rule-making proceedings.

The Administrator may initiate any further rule-making proceedings that he finds necessary or desirable. For example, he may invite interested persons to present oral arguments, participate in conferences, appear at informal hearings, or participate in any other proceeding.

§ 410.31 Hearings.

(a) Hearings will be held if required by statute or the Administrator finds it necessary or desirable.

(b) Except for statutory hearings required to be on the record—

(1) Hearings are fact-finding proceedings, and there are no formal pleadings or adverse parties;

(2) Any rule issued in a case in which a hearing is held is not necessarily based exclusively on the record of the hearing; and

(3) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part.

(c) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 410.33 Adoption of final rules.

If the Administrator adopts the rule, it is published in the FEDERAL REGISTER unless all persons subject to it are named and are personally served with a copy of it.

§ 410.35 Petitions for rehearing or reconsideration of a rule.

(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. Such a petition must be transmitted, in triplicate, to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20591, at least 10 days before the effective date of the rule. Petitions not timely filed will be considered as petitions for rule making

filed under § 410.11. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not possible, is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests consideration of additional facts, he must state the reason they were not presented to the Administrator within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator specifically provides otherwise, and publishes notice thereof in the FEDERAL REGISTER, the filing of a petition under this section does not stay the effectiveness of a rule.

§ 410.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

[F.R. Doc. 68-11537; Filed, Sept. 20, 1968; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

TUNERS FROM JAPAN

Antidumping Proceeding Notice

SEPTEMBER 16, 1968.

On March 22, 1968, information was received indicating a possibility that tuners (of the type used in consumer electronic products) from Japan are being, or likely to be, sold at less than fair value within the meaning of the Anti-dumping Act, 1921, as amended (19 U.S.C. 160 et seq.). This information is in proper form pursuant to §§ 53.26 and 53.27 of the Customs Regulations (19 CFR 53.26, 53.27).

The information was submitted by Lincoln & Stewart, Washington, D.C., on behalf of the World Trade Committee, Parts Division, Electronic Industries Association.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 53.29 of the Customs Regulations (19 CFR 53.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the tuners for exportation to the United States are less than the prices of such or similar merchandise for home consumption in Japan.

This notice is published pursuant to § 53.30 of the Customs Regulations (19 CFR 53.30).

[SEAL]

LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 68-11532; Filed, Sept. 20, 1968;
8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-2443]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 16, 1968.

The Department of Agriculture has filed an application, Serial No. I-2443 for the withdrawal of the lands described below, from all forms of appropriation

under the public land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes as three campgrounds on the Nezperce National Forest.

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, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture.

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 of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO
NEZPERCE NATIONAL FOREST

Baldy Lake Camp

T. 23 N., R. 2 W., unsurveyed, but which probably will be when surveyed:
Sec. 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Totalling 35 acres.

Triangle Lake Camp

T. 23 N., R. 2 W., unsurveyed, but which probably will be when surveyed:
Sec. 22, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$.

Totalling 15 acres.

He Devil Lake Camp

T. 23 N., R. 2 W., unsurveyed, but which probably will be when surveyed:
Sec. 15, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Totalling 15 acres.

The areas described aggregate 65 acres in Idaho County, Idaho.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 68-11496; Filed, Sept. 20, 1968;
8:46 a.m.]

[Serial No. N-1427]

NEVADA

Notice of Public Sale

SEPTEMBER 16, 1968.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427), 43 CFR Subpart 2243, a tract of land will be offered for sale to the highest bidder at a sale to be held at 1 p.m., local time on Wednesday, November 6, 1968, at the Ely District Office, Bureau of Land Management, 130 Pioche Highway, Ely, Nev. 89301. The land is described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 19 N., R. 55 E.,
Sec. 34, E $\frac{1}{2}$.

The area described contains 320 acres. The appraised value of the tract is \$8,700 and the publication costs to be assessed are \$15.

The land will be sold subject to all valid existing rights. Reservations will be made to the United States for ditches and canals in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals are to be reserved to the United States and withdrawn from appropriation under the public land laws, including the general mining laws.

There are improvements on the land which are being neither claimed nor sold by the United States. A work lien for these improvements may be filed against the successful bidder.

Bids may be made by the principal or his agent, either at the sale, or by mail. Bids must be for all the land in the parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received by the Ely District Office, Bureau of Land Management, Pioche Star Route, Ely, Nev. 89301, prior to 1 p.m., on Wednesday, November 6, 1968. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus publication costs. The envelopes must be marked in the lower left-hand corner "Public Sale Bid, Parcel No. 1, sale of November 6, 1968."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids,

if any, are received, the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the tract and cost of publication, before 3:30 p.m. of the day of the sale.

If no bids are received for the sale tract on Wednesday, November 6, 1968, the tract will be reoffered on the first Tuesday of subsequent months at 1 p.m., beginning December 3, 1968.

Any adverse claimants to the above-described land should file their claims, or objections, with the undersigned before the time designated for sale.

The land described in this notice has been segregated from all forms of appro-

priation, including locations under the general mining laws, except for sale under this Act, from the date of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008 Federal Building, 300 Booth Street, Reno, Nev. 89502, or to the District Manager, Bureau of Land Management, Pioche Star Route, Ely, Nev. 89301.

A. JOHN HILLSAMER,
Acting Manager, Nevada Land Office.

[F.R. Doc. 68-11503; Filed, Sept. 20, 1968; 8:47 a.m.]

Action by the Commission, September 17, 1968. Commissioners Hyde (Chairman), Lee, Wadsworth and Johnson.

Adopted: September 17, 1968.

Released: September 18, 1968.

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

[F.R. Doc. 68-11535; Filed, Sept. 20, 1968; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder
License 1080]

INTERNATIONAL TRAFFIC & TRADE SPECIALISTS, INC.

Order of Revocation

On August 6, 1968, the New Hampshire Insurance Co. notified the Commission that the Independent Ocean Freight Forwarder Surety Bond No. 885672, underwritten in behalf of International Traffic & Trade Specialists, Inc., 11 Broadway, New York, N.Y. 10004, would be canceled effective September 6, 1968.

International Traffic & Trade Specialists, Inc., was notified that unless a new surety bond was submitted to the Commission its Independent Ocean Freight Forwarder License No. 1080 would be revoked effective September 6, 1968, pursuant to General Order 4, Amendment 12 (46 CFR 510.9).

International Traffic & Trade Specialists, Inc., has failed to submit a valid surety bond in compliance with the above Commission rule.

It is ordered, That the Independent Ocean Freight Forwarder License No. 1080 is revoked effective September 6, 1968; and

It is further ordered, That the Independent Ocean Freight Forwarder License No. 1080 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 68-11544; Filed, Sept. 20, 1968; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP69-7]

ARKANSAS LOUISIANA GAS CO.

Notice of Proposed Change in Rates and Charges

SEPTEMBER 16, 1968.

Take notice that Arkansas Louisiana Gas Co., on September 5, 1968, tendered for filing a proposed change in its FPC Gas Rate Schedule XFS-2, to become

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

NELSON LIVESTOCK AUCTIONS, INC. ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

<i>Original name of stockyard, location, and date of posting</i>	<i>Current name of stockyard and date of change in name</i>
ARIZONA	
Nelson Livestock Auction, Inc., Tucson, Oct. 15, 1957.	Wentz Brothers Livestock Auction, Inc., Sept. 6, 1968.
ARKANSAS	
Nettleton Stockyard and Auction Market, Inc., Jonesboro, June 29, 1957.	Nettleton Stockyards, Sept. 1, 1968.
Montgomery County Livestock Auction, Inc., Mount Ida, June 13, 1957.	Montgomery County Auction, Sept. 5, 1968.
MISSISSIPPI	
Columbus Stock Yards, Inc., Columbus, June 23, 1967.	Farmers & Ranchers Stockyard, Sept. 5, 1968.
SOUTH CAROLINA	
Marlboro Livestock Auction Market, Bennettsville, Aug. 2, 1967.	Farmers Livestock Auction Market, Inc., Aug. 20, 1968.
SOUTH DAKOTA	
Centerville Livestock Sales, Centerville, 1959.	Centerville Livestock Auction, Inc., July 26, 1968.

Done at Washington, D.C., this 16th day of September 1968.

EDWARD L. THOMPSON,
*Acting Chief, Registrations, Bonds, and
Reports Branch, Livestock Marketing Division.*

[F.R. Doc. 68-11543; Filed, Sept. 20, 1968; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 68-949]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on October 25, 1968, the standard broadcast application listed below will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules,

an application, in order to be considered with this application must be in direct conflict and tendered no later than the close of business October 24, 1968.

KDKO, Littleton, Colo. Radio Station KDKO, Inc.
Has: 1510 kc, 1 kw, DA-1, U.
Req: 1510 kc, 5 kw, 1 kw-LS, DA-2, U.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d) (1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's Rules for the provisions governing the time of filing and other requirements relating to such pleadings.

effective on November 1, 1968. The proposed rate increase of 1 cent per Mcf would increase charges by about \$9,100 per year. The proposed increase would be applicable to rates under a certain purchase contract dated July 23, 1947, as amended, between Arkansas Louisiana Gas Co. as seller and Texas Eastern Transmission Corp. as buyer. The contract covers a field sale of gas in the Jefferson Field, Marion County, Tex. (Railroad Commission District No. 6).

A copy of the filing was served on Texas Eastern Transmission Corp.

Protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before October 18, 1968.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11477; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-49]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

SEPTEMBER 16, 1968.

Take notice that on August 30, 1968, Arkansas Louisiana Gas Co. (Applicant), Shreveport, La. 71102, filed in Docket No. CP69-49 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the development of a storage facility in the Ruston Field, La., and the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that the Ruston Field has historically supplied substantial volumes of gas to Applicant's system. The James Sand reservoir in the Ruston Field has been exhausted and the wells completed in that reservoir have been plugged and abandoned. Applicant proposes to use this reservoir as a storage facility to augment its peak day supply in this area during the heating season. The application further states that the project will have a withdrawal capacity to deliver winter peaking volumes in the order of 150,000 Mcf per day with an initial seasonal withdrawal capacity in the order of 7 million Mcf. Volumes to be injected into the Ruston storage reservoir will be supplied, initially by displacements and later by actual flow, from the East Oklahoma area.

Applicant further seeks authorization to construct and operate the following facilities in order to operate the storage project:

- (1) Six injection-withdrawal wells;
- (2) Four observation wells;
- (3) Approximately 0.85 miles of 20-inch O.D. transmission line from Line F to the central point facilities;
- (4) Approximately 2.8 miles of 8-inch gathering and injection lines from the six wells to the central point facilities;

(5) Related central point facilities to perform such functions as measurement, pressure regulation, dehydration, liquid separation, etc.; and

(6) A 4,000-horsepower compressor unit.

The total estimated cost of the proposed storage project is 4.1 million dollars which will be financed from cash on hand and short term loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11478; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-59]

CITIES SERVICE GAS CO.

Notice of Application

SEPTEMBER 17, 1968.

Take notice that on September 6, 1968, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP69-59 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1969, and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct during the calendar year 1969 and operate miscellaneous meter and regulator equipment, field gathering lines and compressors for the receipt of natural gas purchased from producers.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its

pipeline system quantities of natural gas that may become available during the year from producers in areas generally coextensive with its pipeline system.

The estimated total cost of Applicant's proposed facilities will not exceed \$2 million, with no single project to exceed a cost of \$500,000. Financing is to be from treasury cash.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 11, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11479; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-60]

CITIES SERVICE GAS CO.

Notice of Application

SEPTEMBER 17, 1968.

Take notice that on September 6, 1968, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP69-60 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1969 and operation of certain natural gas sales facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to enable Applicant to act with reasonable dispatch during the calendar year 1969 in establishing new delivery points for direct sales of natural gas to consumers located outside the franchise area of any local distributor and miscellaneous rearrangements not resulting in any change of service rendered by means of the facilities involved.

Specifically, Applicant seeks authorization to construct and operate taps,

connecting lines, metering and regulating equipment, obtain sites for such equipment, rights-of-way, structures, make miscellaneous rearrangements, and construct and operate such other facilities as are necessary for the transportation, measurement and delivery of natural gas.

Applicant states that deliveries to any one purchaser will not exceed 100,000 Mcf annually and such natural gas will not be used for boiler fuel purposes.

The total estimated cost of Applicant's proposed facilities will not exceed \$300,000, with no single project exceeding a cost of \$5,000, such cost to be financed from treasury cash.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11480; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-54]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 17, 1968.

Take notice that on September 4, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-54 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1969, and operation of budget-type gas-sales facilities and the sale and delivery of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that the proposed facilities are to be utilized for the sale and delivery of natural gas to Applicant's existing authorized Southern Division distributor customers for resale and general distribution to residential, nonresidential and irrigation consumers situated in existing market areas in the States of Texas, Oklahoma, New Mexico, and Arizona and San Juan County, Utah. The rates which shall apply to the proposed sales and deliveries are those contained in Applicant's PFC Gas Tariff, Original Volume No. 1.

The application states that the maximum facilities for which authorization is requested consist of 30 taps at an aggregate cost not to exceed \$15,000; 25 measuring and regulating stations at an aggregate cost not to exceed \$175,000; and three lateral or loop pipelines, not to exceed a maximum diameter of 8 $\frac{1}{2}$ -inch O.D. and a maximum length of 12 miles, at an aggregate cost not to exceed \$110,000. Applicant states that the total cost of all proposed facilities will not exceed a maximum of \$300,000. The facilities constructed under the authorization requested will be financed from working funds.

The total maximum cost of facilities proposed in the subject application and in a companion application for budget-type sales facilities proposed in Docket No. CP69-55 for Applicant's Northwest Division System exceeds the limitation set forth in § 157.7(c)(3) of the regulations under the Natural Gas Act; and, therefore, Applicant requests that the Commission waive such limitation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11481; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-55]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 17, 1968.

Take notice that on September 4, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69-55 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1969 and operation of various gas-sales facilities, the sale and delivery of natural gas by means thereof, and the sale and delivery of natural gas by means of facilities to be constructed during the calendar year 1969 and operated by Pacific Gas Transmission Co. (PGT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct on its Northwest Division during the calendar year 1969 and operate certain minor gas sales and transportation facilities, including taps, valves, meters, and lateral or loop lines for the purpose of enabling Applicant to augment its ability to act with reasonable dispatch in making minor sales to customers along its Northwest Division System.

The application states that the proposed facilities are to be utilized for the sale and delivery of natural gas to Applicant's existing authorized Northwest Division distribution customers for resale and general distribution to consumers. To implement the foregoing sales and deliveries, Applicant will utilize supplies of natural gas attached directly to its Northwest Division System or transported for the account of Applicant by PGT.

The total estimated cost of the proposed Northwest Division System facilities is \$300,000, which will be financed from working funds. In view of the fact that a "budget-type" sales-facilities application has been filed in Docket No. CP69-54 in the amount of \$300,000 for its Southern Division System, Applicant also requests a waiver of the cost limitation set forth in § 157.7(c)(3) of the regulations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission

on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11482; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket Nos. CP69-58, CP65-13]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Application and Petition To Amend

SEPTEMBER 17, 1968.

Take notice that on September 6, 1968, Midwestern Gas Transmission Co. (Applicant), Post Office Box 774, Chicago, Ill. 60690, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to increase total peak day sales to five existing customers on its Northern System. The increase in peak day sales of 1,035 Mcf is proposed to commence on November 1, 1968. Applicant states that no additional facilities will be required.

Take further notice that Applicant also requests that the Commission amend its order of August 10, 1965, in Docket No. CP65-13 by continuing Applicant's obligation to Great Plains Natural Gas Co. (Great Plains) at a level of 4,786 Mcf per day after November 1, 1968, rather than increasing it to 5,472 Mcf per day as authorized.

Applicant's proposals are more fully set forth in the application and request for amendment which is on file with the Commission and open to public inspection.

Applicant states that Great Plains has advised it that Great Plains will not require the additional capacity in order to meet its requirements and that it is willing to release this scheduled increase in contract demand to Applicant's other customers.

The Applicant further states that it has an unallocated capacity of 746 Mcf per day on its Northern System and that the proposed release by Great Plains of 686 Mcf per day will therefore enable Applicant to render the requested increased service to five existing customers without requiring an increase in total authorized peak day firm sales from its Northern System.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 11, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and amendment of the order in Docket No. CP65-13 are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11483; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket Nos. CP68-176, CP68-303]

MOUNTAIN GAS CO. AND CABOT CORP.

Order Consolidating Applications for Hearing, Denying Request for Tem- porary Certificate, and Fixing Date of Prehearing Conference

SEPTEMBER 16, 1968.

By application filed May 2, 1968, under section 7(c) of the Natural Gas Act, Mountain Gas Co. seeks a certificate of public convenience and necessity authorizing the leasing and operation of a pipeline system for the transportation and sale of natural gas in interstate commerce to two interstate pipeline companies, the Manufacturers Light & Heat Co. and Consolidated Gas Supply Corp.

Mountain Gas Co. is a new corporation organized under the laws of Delaware by the Cabot Corp. Cabot presently owns and operates an intrastate pipeline system in West Virginia. Cabot has organized Mountain Gas Co. for the purpose of leasing and operating certain facilities now owned or to be constructed by Cabot which are the subject of the present 7(c) application in Docket No. CP68-303.

The facilities that Mountain Gas will lease and operate will include approximately 10 miles of 8-inch and 42 miles of 12-inch transmission lines now in place and presently not being fully utilized by Cabot. Mountain Gas will also lease and operate 7.4 miles of 4-inch, 12.9 miles of 6-inch field lines and 20 measuring stations, all of which will be constructed by Cabot.

Prior to leasing the facilities to Mountain Gas, Cabot will replace 25,000 feet of 8-inch transmission line and upgrade

the system to a maximum allowable working pressure of 500 p.s.i.g.

The depreciated book cost of the facilities presently in place which will be leased to Mountain Gas is \$438,268. The total construction cost including reconditioning a portion of the existing facilities and new pipeline and measuring stations will be \$209,584.

Mountain Gas has contracted for Cabot to provide all services necessary for the operation of the pipeline system. Cabot will be paid \$78,186 annually for operation and maintenance expenses. Cabot will also receive reimbursement for the portion of the total Cabot and Mountain Gas administrative and general expenses allocable to the operation of Mountain Gas. For any other services performed, Cabot will be reimbursed and receive an additional 7 percent of the cost of providing the service. Cabot will also be paid for the leased facilities an amount equaling 7 percent of the annual average net investment plus working capital, taxes, depreciation, and associated costs. Third year total expenses of Mountain Gas are estimated at \$2,190,000.

As a result of three gas purchase contracts, one with an independent producer, Gus Berry, and two with a producer affiliated with Cabot, Appalachian Exploration & Development, Inc., the applicant alleges to have a total of 38,000,000 Mcf of gas reserves available from the Newberg formation in West Virginia.

The applicant anticipates sales of 5,000 Mcf to 12,000 Mcf per day to Consolidated at a point of interconnection with Consolidated's pipeline TL-249, Kanawha County, W. Va., and 8,000 Mcf to 13,000 Mcf per day to Manufacturers at an interconnection with Manufacturer's present pipeline in Sheridan District, Calhoun County, W. Va.

Mountain Gas' price to both Manufacturers and Consolidated will be 30 cents per Mcf for a 10-year term. This price will yield third year total estimated revenues of \$2,190,000 to Mountain Gas.

Mountain Gas will in effect be operating the northern portion of Cabot's pipeline system which will be used for interstate sales of gas. A portion of its remaining pipeline system in West Virginia Cabot seeks to exempt from Federal Power Commission regulation by an application for exemption pursuant to section 1(c) of the Natural Gas Act filed with the Commission on December 18, 1967. The facilities sought to be exempted are those beginning at the discharge side of Cabot's Bradley Compressor Station in Wyoming County, W. Va., extending approximately 90 miles in a northerly direction to the suction side of its Bonham Compressor Station in Kanawha County, W. Va. Cabot alleges that there are valves at the Bonham Compressor Station sufficient to separate Cabot's intrastate facilities from those to be leased to Mountain Gas for its interstate gas sales proposed in Docket No. CP68-303.

At the Bradley Compressor Station in the southern portion of Cabot's system, gas produced from local wells is divided into two streams. One stream is for sales

to United Fuel Gas Co. for interstate sales. The second stream enters the Cabot pipeline system for intrastate sales. Cabot alleges that none of the gas destined for interstate sales is received into its intrastate facilities.

The West Virginia Public Service Commission, by letter dated December 15, 1967, states that it is exercising regulatory jurisdiction over the rates, services and facilities of Cabot.

Notice of Mountain Gas' application in Docket No. CP68-303 was issued on May 9, 1968, and published May 15, 1968, in the FEDERAL REGISTER (33 F.R. 7164). The Public Service Commission of the State of West Virginia filed timely a notice of intervention on May 31, 1968, and consequently has become a party to this proceeding.

On July 19, 1968, Mountain Gas filed an application for a temporary certificate authorizing the temporary rendering of the same service to Manufacturers and Consolidated as is proposed in its application in Docket No. CP68-303. The issuance of such temporary authorization under section 7(c) would be appropriate only to assure maintenance of adequate service during an emergency period. Mountain Gas' application in Docket No. CP68-303, however, does not show evidence of an emergency.

The Commission finds:

(1) It is necessary to determine the nature of the separation of, and the interrelationship between, the facilities of Mountain Gas proposed in Docket No. CP68-303 and the facilities of Cabot for which an exemption is sought in Docket No. CP68-176. The dockets accordingly should be consolidated for hearing and disposition.

(2) Mountain Gas has not shown an emergency within the meaning of section 7(c) of the Natural Gas Act, and its request for a temporary certificate of public convenience and necessity therefore should be denied.

The Commission Orders:

(A) The above-entitled dockets are consolidated for hearing and disposition.

(B) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10 a.m., e.d.s.t., on October 8, 1968, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, for the purpose of considering all matters at issue in the proceeding, determining the manner and time within which evidence shall be presented, fixing the date on which the hearing shall commence, and entertaining adoption of suggestions which may expedite the proceeding.

(C) Mountain Gas and Cabot shall, within 5 days after issuance of this order, serve copies of their applications and supplements or amendments thereto, upon the Public Service Commission of West Virginia unless such service has heretofore been made.

(D) The request of Mountain Gas in Docket No. CP68-303 for a temporary

certificate of public convenience and necessity is denied.

By the Commission.

[SEAL]

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11484; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-61]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 17, 1968.

Take notice that on September 9, 1968, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP69-61 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1969 and operation of facilities for the receipt of natural gas into its main pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to enable Applicant to act with reasonable dispatch in connecting to its pipeline system new supplies of natural gas from producing areas located adjacent to Applicant's pipeline system.

Specifically, Applicant seeks authorization to construct and operate various compressor, pipeline, and other necessary facilities in order to receive natural gas from producers.

The estimated total cost of Applicant's proposed facilities will not exceed \$2 million, with no single project to exceed a cost of \$500,000, which cost will be financed from cash on hand or from cash generated from operations.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11485; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. CP69-45]

SOUTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 16, 1968.

Take notice that on August 30, 1968, Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP69-45 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate facilities to enable it to receive and transport to and through its existing South Louisiana Supply System natural gas produced in the Main Pass and South Pass areas of Offshore Louisiana. Applicant intends to purchase natural gas produced in Main Pass Blocks 289, 290, and 295 and South Pass Blocks 62, 65, and 70 from Shell Oil Co. (Shell), pursuant to a contract between Applicant and Shell dated August 27, 1968.

Specifically, the facilities for which Applicant requests a certificate of public convenience and necessity are as follows:

(1) Approximately 42 miles of 26-inch pipeline extending in a generally east-southeasterly direction from Olga compressor station in Plaquemines Parish, La., to Main Pass Block 298.

(2) Approximately 19 miles of 24-inch pipeline extending in a generally east-southeasterly direction from Main Pass Block 298 to Main Pass Block 289.

(3) Approximately 12 miles of 20-inch pipeline extending in a generally southerly direction from Main Pass Block 298 to South Pass Block 62.

(4) Inlet and outlet side valves, block valves, and other related facilities, to be located on Applicant's existing Olga-Toca pipeline, to enable Applicant to deliver gas to Shell for processing for the extraction of liquefiable hydrocarbons and to accept redelivery of gas after such processing.

Applicant also requests authorization to transport gas for plant use, fuel, loss and shrinkage from Shell's proposed delivery points to a processing plant to be constructed onshore by Shell.

The total estimated cost of the proposed facilities is \$26,976,640, to be financed initially by bank loans which will be repaid from cash from current operations or from permanent financing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before October 14, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11486; Filed, Sept. 20, 1968;
8:45 a.m.]

[Docket No. RP69-4]

TRUNKLINE GAS CO.

Notice of Postponement of Prehearing Conference

SEPTEMBER 17, 1968.

Upon consideration of the request filed on September 10, 1968, by Trunkline Gas Co. that the prehearing conference fixed by order issued August 29, 1968, in the above-designated matter, be postponed from September 24, 1968, to September 27, 1968;

Notice is hereby given that the prehearing conference fixed by order issued August 29, 1968, in the above-designated matter is postponed to September 27, 1968, at 10 a.m., e.d.t.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11487; Filed, Sept. 20, 1968;
8:46 a.m.]

OFFICE OF EMERGENCY PLANNING

HAWAII

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683);

Reorganization Plan No. 1 of 1958, Public Law 85-763, and Public Law 87-296; by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; notice is hereby given of a declaration of "major disaster" by the President in his letter dated September 13, 1968, reading in part as follows:

I have determined that the damage in Maui County, Hawaii, adversely affected by heavy rains and flooding beginning on or about April 15, 1968, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875.

Dated: September 17, 1968.

PRICE DANIEL,
Director,

Office of Emergency Planning.

[F.R. Doc. 68-11497; Filed, Sept. 20, 1968;
8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-2972]

AMERICAN STANDARD, INC.

Notice of Application for Unlisted Trading Privileges and of Oppor- tunity for Hearing

SEPTEMBER 17, 1968.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

American Standard, Inc., \$4.75 cumulative convertible preference stock, Series A no par value; File No. 7-2972.

Upon receipt of a request, on or before October 2, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information

contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11524; Filed, Sept. 20, 1968;
8:48 a.m.]

[File Nos. 7-2957-7-2967]

ARMSTRONG CORK CO., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Oppor- tunity for Hearing

SEPTEMBER 17, 1968.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Armstrong Cork Co.	7-2957
Boise Cascade Corp.	7-2958
Cabot Corp.	7-2959
Commonwealth United Corp.	7-2960
The Dexter Corp.	7-2961
Engelhard Minerals and Chemical Corp.	7-2962
Fedders Corp.	7-2963
Melville Shoe Corp.	7-2964
Oklahoma Gas & Electric Co.	7-2965
Sundstrand Corp.	7-2966
The Susquehanna Corp.	7-2967

Upon receipt of a request, on or before October 2, 1968, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11525; Filed, Sept. 20, 1968;
8:48 a.m.]

[File No. 7-2975]

**CONSUMERS POWER CO.
(MICHIGAN)****Notice of Application for Unlisted
Trading Privileges and of Oppor-
tunity for Hearing**

SEPTEMBER 17, 1968.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Consumers Power Co. (Michigan); File No. 7-2975.

Upon receipt of a request, on or before October 2, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11526; Filed, Sept. 20, 1968;
8:48 a.m.]

[File Nos. 7-2976-7-2978]

FISHER SCIENTIFIC CO., ET AL.**Notice of Applications for Unlisted
Trading Privileges and of Oppor-
tunity for Hearing**

SEPTEMBER 17, 1968.

In the matter of applications of the Pittsburgh Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.
Fisher Scientific Co.----- 7-2976
Washington Steel Corp.----- 7-2977
White Consolidated Industries, Inc.--- 7-2978

Upon receipt of a request, on or before October 2, 1968, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11527; Filed, Sept. 20, 1968;
8:48 a.m.]

[File Nos. 7-2973, 7-2974]

**PARGAS, INC., AND JIM WALTER
CORP.****Notice of Applications for Unlisted
Trading Privileges and of Oppor-
tunity for Hearing**

SEPTEMBER 17, 1968.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

File No.
Pargas, Inc.----- 7-2973
Jim Walter Corp.----- 7-2974

Upon receipt of a request, on or before October 2, 1968, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts

bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11528; Filed, Sept. 20, 1968;
8:49 a.m.]

ROVER SHOE CO.**Order Suspending Trading**

SEPTEMBER 17, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Rover Shoe Co., Bushnell, Fla., and stock purchase warrants of Rover Shoe Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered. Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 18, 1968, through September 27, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11529; Filed, Sept. 20, 1968;
8:49 a.m.]

[File No. 1-2879]

ROYSTON COALITION MINES, LTD.**Order Suspending Trading**

SEPTEMBER 17, 1968.

The capital stock 1 cent par value of Royston Coalition Mines, Ltd., being listed and registered on the Salt Lake Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Royston Coalition Mines, Ltd., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered. Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the Salt Lake Stock Exchange and otherwise than on a national securities exchange be summarily

suspended, this order to be effective for the period September 18, 1968, through September 27, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11530; Filed, Sept. 20, 1968;
8:49 a.m.]

MUNICIPAL INVESTMENT TRUST FUND, SERIES L

Notice of Filing of Application for Order of Exemption

SEPTEMBER 17, 1968.

Notice is hereby given that Municipal Investment Trust Fund, Series L ("Applicant"), 55 Broad Street, New York, N.Y., a unit investment trust registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is one of a series of similar funds named "Municipal Investment Trust Fund," and will be governed by a Trust Agreement under which Goodbody & Co. and Bache & Co. will act as Sponsors and the United States Trust Company of New York as Trustee. Pursuant to the Trust Agreement, the Sponsors will deposit with the Trustee between \$4 million and \$6 million principal amount of bonds which the Sponsors shall have accumulated for such purpose and simultaneously with such deposit will receive from the Trustee registered certificates for between 4,000 and 6,000 units. Applicant proposes to offer such units for sale to the public and for this purpose a registration statement under the Securities Act of 1933 has been filed which has not yet become effective. The Trust Agreement does not provide for the issuance of additional units. The proceeds of bonds which may be sold, redeemed or which mature will be distributed to unit holders.

Units will remain outstanding until redeemed or until the termination of the Trust Agreement, which may be terminated by 100 percent agreement of the unitholders of Applicant, or, in the event that the value of the bonds shall fall below 40 percent of the principal amount of the Fund, upon direction of the Sponsors to the Trustee. In connection with the requested exemption, the Sponsors have agreed to refund the sales load to purchasers of units, if within 90 days after the registration statement under the Securities Act becomes effective, the net worth of Applicant shall be reduced to less than \$100,000 or if Applicant is terminated. The Sponsors will instruct the Trustee on the date the bonds are deposited that if Applicant shall at any time have a net worth of less than 40 percent of the principal amount of bonds in the Fund, as a result of redemption by

the Sponsors of units constituting a part of the unsold units, the Trustee shall terminate the Trust in the manner provided in the Trust Agreement and distribute any bonds or other assets deposited with the Trustee pursuant to the Trust Agreement as provided therein. The Sponsors have agreed to refund any sales load to any purchaser of units purchased from the Sponsors or any participating dealer on demand and without any deduction in the event of such termination. In addition, it is the Sponsors' intention to maintain a market for the units of Applicant and continually to offer to purchase such units at prices in excess of the redemption price as set forth in the Trust Agreement, although the Sponsors are not obligated to do so.

Section 14(a) of the Act requires that a registered investment company (a) have a net worth of at least \$100,000 prior to making a public offering of its securities, (b) have previously made a public offering and at that time have had a net worth of \$100,000, or (c) have made arrangements for at least \$100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions.

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

Notice is further given that any interested person may, not later than October 3, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing), upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 68-11531; Filed, Sept. 20, 1968;
8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

EQUILEASE CAPITAL CORP.

Notice of Issuance of Small Business Investment Company License

On July 12, 1968, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (33 F.R. 10030) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations Governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) for a license as a small business investment company by Equilease Capital Corp., 270 Madison Avenue, New York, N.Y. 10016.

Interested parties were given to the close of business August 27, 1968, to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA will issue License No. 02/02-0269 to Equilease Capital Corp. to operate as a small business investment company.

Dated: September 13, 1968.

GLENN R. BROWN,
Associate Administrator
for Investment.

[F.R. Doc. 68-11498; Filed, Sept. 20, 1968;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 17, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41446—Lumber and Related Articles to Points in South Dakota. Filed by Southwestern Freight Bureau, agent (No. B-9110), for interested rail carriers. Rates on lumber and related articles, as described in the application, in carloads, from points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas,

to points in South Dakota on the CB&Q. Grounds for relief—Carrier competition and rate relationship.

Tariff—Supplement 53 to Southwestern Freight Bureau, agent, tariff ICC 4633.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[P.R. Doc. 68-11514; Filed, Sept. 20, 1968;
8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 18, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41447—*Barite (Barytes) to Points in Louisiana*. Filed by Southwestern Freight Bureau, agent (No. B-9106), for interested rail carriers. Rates on barite (barytes), ground, in carloads, from specified points in Arkansas and Missouri, to specified points in Louisiana.

Grounds for relief—Market competition.

Tariff—Supplement 32 to Southwestern Freight Bureau, agent, tariff ICC 4703.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[P.R. Doc. 68-11515; Filed, Sept. 20, 1968;
8:47 a.m.]

[No. 35025]

SOUTHERN TERRITORY

Incentive Rates and Detention Rules

SEPTEMBER 13, 1968.

Notice is hereby given that the South-eastern Lumber Manufacturers Association and Beal Lumber Co., have filed a petition with the Interstate Commerce Commission, pursuant to section 13 of the Interstate Commerce Act, requesting that the Commission institute an investigation on its own motion concerning the justness, reasonableness, and lawfulness of the rates, charges, and practices of certain common carriers by railroad in regard to the transportation of lumber. Specifically, the petitioners state that they are only allowed 24 hours of free time for loading or unloading, whereas their competitors at Pacific Coast and Canadian origins are accorded 48 hours. They also state that they must comply with the minimum weight provisions, whereas the competitors can avail themselves of the "load to full visible capacity" rule.

Any persons interested in any of the matters in the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file re-

plies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies upon both Mr. H. F. Beal, Post Office Box 2638, Jacksonville, Fla. 32203, and Mr. John C. Milliner, Jr., Executive Secretary, Southeastern Lumber Manufacturing Association, Suite 330, 1001 Virginia Avenue, Hapeville, Ga. 30054.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] H. NEIL GARSON,
Secretary.

[P.R. Doc. 68-11516; Filed, Sept. 20, 1968;
8:47 a.m.]

ALEXANDER W. WUERKER

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769), "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Office of the Federal Register for Publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (26 F.R. 8958, 27 F.R. 3829, 27 F.R. 9469, 28 F.R. 4269, 28 F.R. 10468, 29 F.R. 5579, 29, F.R. 12992, 30 F.R. 5888, 30 F.R. 12310, 31 F.R. 4857, 31 F.R. 13268, 32 F.R. 4295, 32 F.R. 13361, and 33 F.R. 4864) during the 6 months' period ended September 14, 1968.

No change.

Dated: September 14, 1968.

ALEXANDER W. WUERKER.

[P.R. Doc. 68-11517; Filed, Sept. 20, 1968;
8:48 a.m.]

[Notice 692]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 17, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and

must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 42487 (Sub-No. 699 TA), filed September 12, 1968. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: A. John Warren, Post Office Box 3301, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compound*, in bulk, in tank vehicles from Hawthorne, Calif. to Hutchinson, Kans., for 150 days. Supporting shipper: Textilana Corp., 12607 Cerise Avenue, Hawthorne, Calif. 90250. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 106460 (Sub-No. 72 TA), filed September 12, 1968. Applicant: KAW TRANSPORT COMPANY, Post Office Box 8525, Sugar Creek, Mo. 64054. Applicant's representative: H. D. Holwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from St. Joseph, Mo., to points in Iowa, Kansas, Nebraska, and Colorado, for 180 days. Supporting shipper: Woodbury Chemical Co., Post Office Box 788, St. Joseph, Mo. 64502. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 107839 (Sub-No. 128 TA), filed September 12, 1968. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Cade and Lozes, La., to points in Colorado and New Mexico, for 150 days. Supporting shipper: Bruce's Foods Corp., Post Office Drawer 1030, New Iberia, La. 70560. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 113678 (Sub-No. 325 TA), filed September 12, 1968. Applicant: CURTIS, INC., 770 East 51st Avenue, Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (non-frozen), from Port Clinton, Ohio, to

points in New York and Pennsylvania, for 150 days. Supporting shipper: Silver Fleece, Inc., Port Clinton, Ohio. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114364 (Sub-No. 179 TA), filed September 12, 1968. Applicant: WRIGHT MOTOR LINES, INC., Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Rodger Spahr (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing products and siding products and related materials used in the installation of such products* from Stroud, Okla., to points in Missouri and Texas, for 180 days. Supporting shipper: Allied Material Corp., Allied Building, 5101 North Pennsylvania, Post Office Box 12340, 39th Street Station, Oklahoma City, Okla. 73112. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest 6th, Oklahoma City, Okla. 73102.

No. MC 124951 (Sub-No. 29 TA), filed September 12, 1968. Applicant: WATHEN TRANSPORT, INC., Post Office Box 237, Henderson, Ky. 42420. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated iron and steel articles*, from the plantsite of Globe Industrial Contractors at Henderson, Ky., to points in Ohio, transporting *rejected or damaged shipments* on return, for 180 days. Supporting shipper: Mary Julia Johnston, Secretary-Treasurer, Globe Industrial Contractors, Inc., 901 Fifth Street, Henderson, Ky. 42420. Send protests to: Wayne L. Merillatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 128252 (Sub-No. 3 TA) (Correction), filed August 12, 1968, published in the FEDERAL REGISTER, issue of August 19, 1968, and republished as corrected this issue. Applicant: DAVID MARCUS, doing business as MARCUS TRUCKING, 1625 Emmons Avenue, Brooklyn, N.Y. 11235. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric lamps, electric lighting fixtures and parts used in the manufacture of electric lamps and electric lighting fixtures* (1) from points in that part of the New York, N.Y. commercial zone, as defined in the fifth supplemental report in *commercial zones and terminal areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provision of section 203(b) (8) of the Act (the exempt zone) to the premises to Mobilite, Inc., at Hauppauge, N.Y., with no transportation for compensation except as otherwise authorized. Restriction: The authority granted above is re-

stricted to shipments which have had an immediately prior movement by water; (2) from the premises of Mobilite, Inc., at Hauppauge, N.Y., to points in that part of the New York, N.Y. commercial zone, as defined in the fifth supplemental report in *commercial zones and terminal areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provision of section 203(b) (8) of the Act (the exempt zone), and to points in New Jersey, and in Fairfield County, Conn., with no transportation for compensation except as otherwise authorized, for 180 days. NOTE: The purpose of this republication is to clarify the description of the origin territory in (1) above, and to show the destination territory in (2) above which was inadvertently omitted in the previous publication. Supporting shipper: Mobilite, Inc., 98 Cuttermill Road, Great Neck, N.Y. 11022. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 129054 (Sub-No. 4 TA) (Correction), filed August 30, 1968, published in the FEDERAL REGISTER, issue of September 10, 1968, and republished as corrected this issue. Applicant: GILDER TRUCKING COMPANY, 280 Memorial Drive SE., Atlanta, Ga. 30312. Applicant's representative: Virgil H. Smith, Suite 431, Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded polystyrene forms and shapes*, from Lawrenceville, Ga., to points in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, and Virginia, for 180 days. NOTE: The purposes of this republication is to include State of Oklahoma, omitted as a destination point. Supporting shipper: Dolco Packaging Corp., Post Office Box 567, Lawrenceville, Ga. 30245. Send protests to: William L. Scroggs, District Supervisor, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-11518; Filed, Sept. 20, 1968;
8:48 a.m.]

[Notice 693]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 18, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the

date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest 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 94265 (Sub-No. 209 TA), filed September 12, 1968. Applicant: BONEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. 23502. Applicant's representative: Harry Buckwalter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh dressed beef carcasses, primal cuts, fresh or frozen boxed meats*, from the plantsite of the Gentner Packing Co., Inc. of South Bend, Ind. (formerly Nutwood, Ind.) to New York commercial zone as defined by the Commission, Long Island, N.Y., Courtland, N.Y.; Hawthorne and Newark, N.Y.; Florence, Englewood and South Kearney, N.J.; Philadelphia and Allentown, Pa.; Boston, Somerville, Westwood, and Springfield, Mass.; East Hartford and Bridgeport, Conn., for 180 days. Supporting shipper: Gentner Packing Co., Inc., Post Office Box 1227, South Bend, Ind. 46624. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 108207 (Sub-No. 248 TA), filed September 12, 1968. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, 75207, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lemon juice*, from Jackson, Miss., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, for 180 days. NOTE: Applicant does not intend to tack. Supporting shipper: Smoked Foods Products Co., Inc., 2100 North Mill Street, Post Office Box 4564, Jackson, Miss. 39216. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 114533 (Sub-No. 170 TA), filed September 13, 1968. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Radio pharmaceuticals, isotopes, and related products*, between points in St. Louis County, Mo., on the one hand, and, on the other, points in Kansas, for 150 days. Supporting shipper: Mallinckrodt/Nuclear (Mallinckrodt Chemical Works), Box 10172, Lambert Field, St. Louis, Mo. 63145. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 119934 (Sub-No. 151 TA), filed September 13, 1968. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent phosphoric acid*, in bulk, in tank vehicles, from Cleveland, Miss., and Union City, Tenn., to points in Indiana, Kentucky, and Ohio, for 180 days. Supporting shipper: Mobil Chemical Co., Industrial Chemicals Division of Mobil Oil Corp., 401 East Main Street, Richmond, Va. Send protests to: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 123048 (Sub-No. 141 TA), filed September 13, 1968. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 191 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Leo L. Berg (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, power mowers, hand mowers, attachments, attaching tools, and parts when moving with tractors*, from Wheel Horse Products, Inc., at South Bend, Ind., to points in Colorado, Connecticut, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. Supporting shipper: Wheel Horse Products, Inc., 515 West Ireland Road, South Bend, Ind. 46614 (Jim A. Brown). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 128575 (Sub-No. 1 TA), filed September 13, 1968. Applicant: GOLDEN WEST TRUCKING CO., a corporation, 3290 Willamette Street, Eugene, Ore. 97405. Applicant's representative: Earl V. White, 2400 Southwest Fourth Avenue, Portland, Ore. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Wooden decking*, from Fresno, Calif., to points in Oregon and Washington; (b) *lumber and wooden decking*, from points in California in the counties of Mendocino, Glenn, Butte, Tehama, Shasta, Trinity, Humboldt, Del Norte, and Siskiyou, to points in Oregon

and Washington, for 180 days. Supporting shipper: Timber Structures, Inc., 3400 Northwest Yeon Avenue, Post Office Box 3782, Portland, Ore. 97208. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Ore. 97204.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-11519; Filed, Sept. 20, 1968;
8:48 a.m.]

[Notice 213]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 17, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70713. By order of August 30, 1968, the Transfer Board approved the transfer to Jerry O'Connell, doing business as Shamrock Truck Lines, San Jose, Calif., of that portion of the certificate of registration in No. MC-120733 (Sub-No. 1), issued May 26, 1964, to Martin A. Rotondo and Eric MacDonald, a partnership, doing business as Tondo Trucking, San Mateo, Calif., and acquired by transferor herein pursuant to No. MC-FC-69035 approved September 28, 1966, and consummated October 31, 1966, described in items 1, 2, 3, 4, 5, 6, and 10, and item 11 to the extent it provides for routes, as applicable, for operating convenience only, evidencing a right to engage in transportation in interstate or foreign commerce solely in the State of California, corresponding to the above-numbered items in the certificate of public convenience and necessity in decision No. 60947, dated October 25, 1960, issued by the Public Utilities Commission of the State of California. Marvin Handler, 405 Montgomery Street, San Francisco, Calif. 94104; attorney for applicants.

No. MC-FC-70714. By order of August 30, 1968, the Transfer Board approved the transfer to Ruddway Drayage, Inc., San Francisco, Calif., of that portion of the certificate of registration in No. MC-120733 (Sub-No. 1), issued May 26, 1964, to Martin A. Rotondo and Eric MacDonald, a partnership, doing business as Tondo Trucking, San Mateo, Calif., and acquired by transferor herein

pursuant to No. MC-FC-69035 approved September 28, 1966, and consummated October 31, 1966, described in items 7, 8, and 9, and item 11 to the extent it provides for routes, as applicable, for operating convenience only, evidencing a right to engage in transportation in interstate or foreign commerce solely in the State of California, corresponding to the above-numbered items in the certificate of public convenience and necessity in decision No. 60947, dated October 25, 1960, issued by the Public Utilities Commission of the State of California. Marvin Handler, 405 Montgomery Street, San Francisco, Calif. 94104, attorney for applicants.

No. MC-FC-70722. By order of August 30, 1968, the Transfer Board approved the transfer to Billie Lee Cole, Bluefield, W. Va., of the operating rights in permit No. MC-118807 issued January 27, 1960, to Willie H. Cole, Bluefield, W. Va., authorizing the transportation, over irregular routes, of such commodities as are sold by retail and mail-order houses, in retail delivery service, from Bluefield, W. Va., to points in Buchanan, Giles, Bland, and Tazewell Counties, Va., and damaged, defective, repossessed, and traded-in shipments of the above-specified commodities on return, restricted to service for a named shipper. A. J. Lubliner, Box 966, 209 Law & Commerce Building, Bluefield, W. Va. 24701; attorney for applicants.

No. MC-FC-70117. By order of August 30, 1968, the Transfer Board, on reconsideration, approved the transfer to Mildred Reining, Gerald M. Reining, and Floyd T. Olver, a partnership, doing business as W. J. Reining & Sons, Beachlake, Pa., of the operating rights in certificate No. MC-59295 issued May 11, 1962, to E. Willis Avery, Rose Avery, Millard Avery, Raymond Avery, and Frank Avery, doing business as Avery Transportation, Beachlake, Pa., authorizing the transportation of livestock, agricultural commodities, feeds and grain, fertilizer and oyster shells, coal, and lime and limestone products, from and to points as specified in Indiana, New York, New Jersey, and Pennsylvania, and Washington, D.C., and Baltimore, Md. Dual operations were authorized. Kenneth R. Davis, registered practitioner, 1106 Dartmouth Street, Scranton, Pa. 18504; representative for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-11520; Filed, Sept. 20, 1968;
8:48 a.m.]

[Notice 214]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 18, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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-69607. By order of August 21, 1968, Division 3, acting as an Appellate Division approved the transfer to Nepeco Corp., Byron, Wyo., of a portion of the operating rights certificate in No. MC-1897, issued November 19, 1965, to J. W. Cockburn, doing business as Cockburn Co., Powell, Wyo., authorizing the transportation of: Machinery, materials, supplies, and equipment in-

cidental to or used in the construction, development, and production of natural gas and petroleum, between points in Montana and Wyoming within 100 miles of Powell, Wyo., including Powell, Ward A. White, Post Office Box 568, Cheyenne, Wyo. 82001; attorney for applicants.

[SEAL] H. NEIL GARSON,
 Secretary.
 [F.R. Doc. 68-11521; Filed, Sept. 20, 1968; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during September.

3 CFR	Page	7 CFR—Continued	Page	12 CFR	Page
PROCLAMATIONS:					
3864	12359	910	12535, 12723, 12820, 12999, 14283	218	12886, 13001
3865	12717	915	14116	224	12673
3866	12953	921	12773	501	14102
3867	12997	923	12774	511	12959
3868	14047	924	12774	526	12540
3869	14159	931	14283	545	12541, 12959, 12960
EXECUTIVE ORDERS:					
April 17, 1926 (revoked in part by PLO 4523)	14233	932	13000	561	12960, 12961
5289 (revoked in part by PLO 4519)	12551	944	14116, 14171	563	14103
11007 (see EO 11425)	12363, 12551	947	14171, 14229	569	12541
11143 (revoked by EO 11425)	12363	958	14171	584	12541
11149 (revoked by EO 11428)	12719	981	12365, 12366	589	12822
11156 (revoked by EO 11427)	12617	987	12724, 12774	PROPOSED RULES:	
11157 (amended by EO 11424)	12361	993	14172	545	12966
11159 (revoked by EO 11425)	12363	1001	12958	561	12966
11302 (amended by EO 11429)	12817	1002	12958, 14229	14 CFR	
11382 (revoked in part by EO 11428)	12719	1004	12958	Ch. I	14103
11424	12361	1015	12958	21	14104
11425	12363	1016	12885	27	14104
11426	12615	1060	12820	29	14104
11427	12617	1064	12820	39	12542, 13002
11428	12719	1068	12820	43	12620, 12823, 12887, 12961, 12888, 14104
11429	12817	1126	12821	45	14104
11430	13502	1421	12535, 12540, 12821, 13000, 14284	71	12543, 12544, 12620, 12775, 12824, 12890, 12891, 12962, 13002, 13003, 14161, 14219, 14220, 14284, 14285.
5 CFR					
Ch. I	12402	1425	12673	73	12824, 12891, 12892
213	12531, 12955, 14101, 14229	1427	12959	75	12892
550	14101	1464	14069	91	12825, 12888, 14104
733	12721	PROPOSED RULES:			
890	12955	51	13032, 14117	95	13003
1001	12721	722	12380	97	12621, 12826, 14049, 14221
7 CFR					
7	12955	925	12745	123	12888
26	12819	927	12779	127	14104
33	12819	931	12576	141	12825
68	12531	989	14117	151	12544
220	14116	1001	12849	153	14107
319	14282	1002	12849	159	12833
401	12665-12671, 12721, 12773, 14282	1003	12849	171	12544
729	12671	1004	12849	207	12546
811	12533, 12999	1015	12849	288	12892
831	12957, 14229	1016	12849	375	12834
849	12723	1033	14302	400	12640
876	14116	1040	12576	405	12641
905	14066, 14067, 14169	1062	14302	1207	14229
906	14067, 14068, 14170, 14282	1064	12675	PROPOSED RULES:	
908	12534, 12723, 12885, 12999, 14170, 14282	1067	14302	25	12779
9 CFR					
78	12366	1102	14302	33	12779
83	14284	1104	14117	39	12579
318	14219	1133	14173	61	12780
PROPOSED RULES:					
203	12852	1136	14325	71	12782, 12783, 12853, 12915-12918, 13033, 14237, 14238.
FEDERAL REGISTER, VOL. 33, NO. 185—SATURDAY, SEPTEMBER 21, 1968					

14 CFR—Continued Page

PROPOSED RULES—Continued

75	12918, 14238
93	12580, 12918, 14239
159	12677
298	12745
302	12783

15 CFR

368	12724, 12835
370	12728
371	12728, 12835
372	12728
373	12729, 12836
374	12729
377	12729
379	12730, 12837
380	12731
385	12731

16 CFR

13	12367, 12837-12841, 12893-12896, 12962, 12963, 14161, 14286.
15	12646, 12647

17 CFR

230	12647
240	12647, 14109
241	13005, 14286

PROPOSED RULES:

239	13035
240	13036
249	13035

18 CFR

3	14232
154	12619

PROPOSED RULES:

33	13034
34	13034
50	14173
101	12967
141	12967
160	14173
201	12967
260	12967, 12973
401	14119

19 CFR

1	12775
8	12776

PROPOSED RULES:

14	14077
----	-------

20 CFR

404	12546
405	12731

21 CFR

1	13007
3	12776
19	12777
29	13007
120	13007
121	12368, 12369, 14233
141	12732
141a	12369
146	13008
146b	13008
146c	14233
146e	13009
148c	12369, 12619
148e	13009
148i	13009
148m	13009
148t	13009

21 CFR—Continued Page

PROPOSED RULES:

19	12382
46	12383

23 CFR

255	12841, 14162
-----	--------------

PROPOSED RULES:

255	14173
-----	-------

24 CFR

17	12897
81	12648
1500	12899

25 CFR

221	12649
-----	-------

26 CFR

1	12899
---	-------

PROPOSED RULES:

1	12376, 12553, 12744, 12910, 13029, 14236
147	13031, 14302

28 CFR

0	12649
---	-------

29 CFR

60	12808
526	12546
1404	12547
1500	12777

PROPOSED RULES:

516	14327
694	14077

32 CFR

41	13009
71	13009
73	13009
75	13010
78	13010
92	12548
158	13011
163	12732
190	13014
192	13015
193	13016
194	13016
195	13017
195a	13020
258	13024
261	13025
290	12650
543	14163
813	14069
1001	14070

32A CFR

NSA (Chapter XVIII):

AGE-4	14286
-------	-------

33 CFR

110	12549
207	14166
208	12733

36 CFR

212	12550
213	12370
251	12550, 12955

PROPOSED RULES:

7	12849, 12914
---	--------------

37 CFR Page

PROPOSED RULES:

1	14327
---	-------

38 CFR

14	12842
----	-------

39 CFR

125	14111
132	12619
143	12619
213	12907
221	12907
224	12907
225	12907
232	12907
241	12907
247	12907
271	12907
273	12907
824	12908

PROPOSED RULES:

151	14237
-----	-------

41 CFR

1-2	14287
1-6	14287
1-8	14287
1-10	14287
1-12	14287
1-16	14287
1-18	14288
5-1	12550
5-5	12550
5B-2	13025
8-3	12550, 14166
8-6	14166
8-7	14167
11-1	13025
11-3	13026
11-5	13026
11-6	13026
12-1	12843
12-2	12845
24-1	12734
24-2	12737
24-51	12738

PROPOSED RULES:

50-201	14258
50-204	14258

42 CFR

51	13026
----	-------

PROPOSED RULES:

208	12384
-----	-------

43 CFR

2230	14111
------	-------

PUBLIC LAND ORDERS:

4518	12551
4519	12551
4520	12551
4521	14113
4523	14233

45 CFR

112	12650
113	12652
635	12654

46 CFR

309	14277
510	12654

46 CFR—Continued

Page

PROPOSED RULES:

284	12382
514	12386, 12747
536	12582

47 CFR

2	12673, 14167, 14296
21	12846, 12908
73	12370
81	12673
83	12673
87	12846, 14296, 14299
89	14167
91	14167
93	14167

47 CFR—Continued

Page

PROPOSED RULES:

1	12678
2	12785, 12787, 14121
21	12785, 12787
43	12853
73	12854, 13034, 14130, 14240
81	14121
83	14121
87	12785, 12787

49 CFR

1	12659, 12963, 14113
239	14168
1033	12372, 12660, 12741, 12964

49 CFR—Continued

Page

PROPOSED RULES:

239	14239
410	14327
Ch. X	12679, 14130

50 CFR

10	12660, 14074, 14235
12	12964
32	12373
	12374, 12552, 12664, 12665, 12742,
	12743, 12847, 12848, 12908, 12909,
	13027, 13028, 14074, 14075, 14114,
	14115, 14168, 14169, 14299-14301
33	12375, 12778