FEDERAL REGISTER

VOLUME 33 • NUMBER 191

Tuesday, October 1, 1968 • Washington, D.C.

Pages 14613–14689

PART I

(Part II begins on page 14675)

Agencies in this issue—

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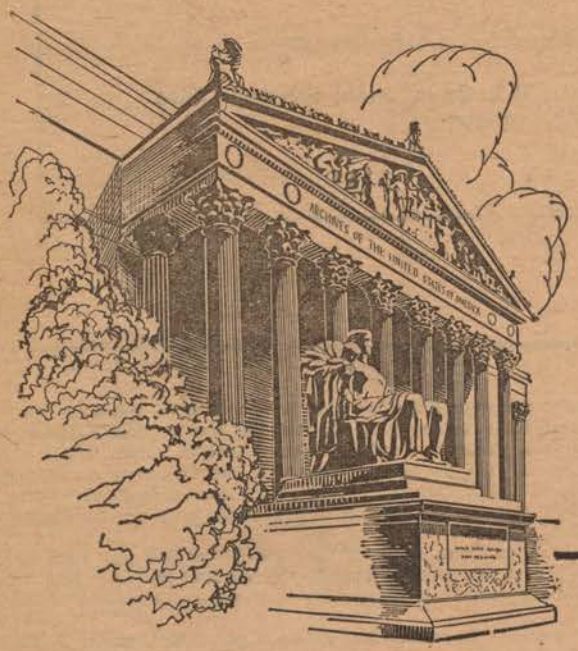

How To Find U.S. Statutes and United States Code Citations

[Revised Edition—1965]

This pamphlet contains typical legal references which require further citing. The official published volumes in which the citations may be found are shown alongside each reference—with suggestions as to the logical sequence to follow in using them. Additional finding aids, some especially useful in citing current legislation, also have been included. Examples are furnished at pertinent points and a list of references, with descriptions, is carried at the end.

This revised edition contains illustrations of principal finding aids and reflects the changes made in the new master table of statutes set out in the 1964 edition of the United States Code.

Price: 10 cents

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

[Published by the Committee on the Judiciary, House of Representatives]

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

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

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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.

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Title 3—THE PRESIDENT

Proclamation 3872

LEIF ERIKSON DAY, 1968

By the President of the United States of America

A Proclamation

About one thousand years ago Leif Erikson and his band of Vikings sailed across the North Atlantic and landed on the shores of North America. These intrepid Norse seafarers had only crude navigational instruments, but they had an abundance of courage, energy, and perseverance.

These qualities continue to inspire millions of Americans who trace their ancestry to the countries of the Vikings.

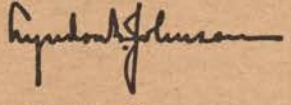
At a time when man has embarked on new voyages of discovery in space and under the sea, it is especially appropriate that we recognize the epic story of the voyages of this great Norse hero.

I am honored to comply with the request of the Congress of the United States, in a joint resolution approved September 2, 1964 (78 Stat. 849), that the President proclaim October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate Wednesday, October 9, 1968, as Leif Erikson Day; and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in schools and churches, or other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and sixty-eight, and of the Independence of the United States of America the one hundred and ninety-third.



[F.R. Doc. 68-11934; Filed, Sept. 27, 1968; 12:47 p.m.]

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1968 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1968. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

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Title 7—AGRICULTURE

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

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 26—GRAIN STANDARDS

Department Charges and Fees

Statement of considerations. The U.S. Grain Standards Act provides that whenever an appeal shall be taken or a dispute referred to the Secretary of Agriculture under the Act, he shall charge and assess, and cause to be collected, a reasonable fee, in amount to be fixed by him. The fee, in case of an appeal, shall be refunded if the appeal is sustained.

A recent cost study reveals the need for an amendment of the fees and charges for appeal inspections to reflect current costs. This has been necessitated, in part, by the Postal Revenue and Federal Salary Act of 1967 (Public Law 90–206) and Executive Order 11413 (June 11, 1968) which provide for increases in compensation paid to Federal employees.

Accordingly, the schedule of fees and charges is being amended to:

(1) Reduce the fee for grain in ships, barges, or other waterborne carriers;

(2) Increase the fee for grain in covered hopper cars;

(3) Reduce the fee for lots of grain in bins and warehouses;

(4) Increase the charge for holiday, night, and overtime work performed by employees of the Department on account of an appeal or a dispute.

Under Public Law 90–206, Federal employees are entitled to overtime compensation in certain instances for time spent travelling. Accordingly, the regulation which provided for charging overtime for time spent in travel on a "commuted travel" basis is being revised to provide for charging overtime when an employee receives overtime compensation for travel time in connection with an appeal or a dispute.

It has been determined that in order to cover the increased costs of the appeal inspection services, the overtime charges in connection with the performance of appeal inspection services must be increased as soon as practicable as provided herein.

Pursuant to the authority contained in section 6 of the U.S. Grain Standards Act, as amended (7 U.S.C. 78), § 26.74 of the regulations under the Act (7 CFR Part 26) governing the fees and charges in an appeal or dispute is amended to read as follows:

§ 26.74 Fees and charges.

The fee in an appeal or dispute shall be fixed as follows:

(a) For bulk or sacked grain in carlots;

(1) Covered hopper cars and other cars with a marked capacity of 130,000 or more pounds, $13 per carlot or part carlot;

(2) All other cars, $9 per carlot or part carlot;

(b) For bulk or sacked grain in truck and trailer lots, $5.50 per truck or trailer lot or part truck or part trailer lot;

(c) For bulk or sacked grain in ship, barge, or other waterborne carrier lots, $1.75 per thousand bushels or fraction thereof, with a minimum of $5 per lot;

(d) For submitted sample, or package of grain, $3.50 per sample or package;

(e) For all lots of grain other than those referred to in paragraphs (a), (b), (c), and (d) of this section, $1.75 per thousand bushels or fraction thereof, with a minimum fee of $5 per lot;

(f) For extra copies of an appeal or a dispute grade certificate fifty cents ($0.50) per copy. The original and one copy of each appeal or dispute grade certificate or divided-original certificate, shall be issued to the appellant of record or to his order, and one copy shall be issued to each other interested party of record, or to his order. Additional copies furnished to the appellant and to each other interested party, or to their order, shall be considered extra copies;

(g) Charges for holiday, night, or overtime work performed by employees of the Department on account of an appeal or dispute, and for travel time on account of an appeal or dispute for which employees receive overtime compensation, shall be determined at the rate of $9.80 per man-hour per employee and shall include the following:

(1) A minimum charge of two hours shall be made for any unscheduled overtime work performed by an employee in any of the following circumstances: (i) On a day when no work was scheduled for him; or (ii) which is performed by an employee on his regular work day beginning either at least 1 hour before his regular tour of duty or which has necessitated his recall to perform work after he has completed his regular tour of duty and has left his place of employment; or (iii) when the employee is ordered, before he leaves his place of employment, to perform such unscheduled overtime work and at least 2 hours elapse between the end of his duty tour, whether regular or overtime, and his return to duty to perform the overtime work.

(2) The charges for holiday, night, or overtime work and for travel time for which employees receive overtime compensation shall be in addition to the fees described in paragraphs (a) to (f) of this section in all cases, whether the appeal be sustained or not sustained.

(Sec. 6, 39 Stat. 484, as amended; 7 U.S.C. 78)

The establishment of the above fees and charges depends upon facts within the knowledge of the Consumer and Marketing Service. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Therefore, pursuant to the provisions of 5 U.S.C. § 553, it is found upon good cause that notice and other public procedures on the amendment are impracticable and unnecessary.

This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of September 1968.

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

[F.R. Doc. 68-11905; Filed, Sept. 30, 1968; 8:50 a.m.]

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—U.S. Standards for Grades of Mixed Nuts in the Shell [1]

On September 14, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 13032) regarding a proposed amendment of U.S. Standards for Grades of Mixed Nuts in the Shell (§§ 51.3520–51.3523).

Statement of considerations leading to the amendment of the grade standards. These grade standards were issued August 1, 1965, under authority of the Agricultural Marketing Act of 1946 which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading service is also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of the service.

Following publication of the proposal in the FEDERAL REGISTER, copies were mailed to packers of mixed nuts and to industry organizations for comments. The proposed changes were explained in detail. These changes raise the quality requirements for pecans in the U.S. Extra Fancy grade (§ 51.3521) and in the U.S. Fancy grade (§ 51.3522) from 80 percent U.S. No. 1 quality to U.S. No. 1. The quality requirements for both pecans and walnuts in the U.S. Commercial or U.S. Select grade (§ 51.3523) are raised to the level of the minimum requirements for continuous inspection labeling. Amendment of the standards will enable packers of mixed nuts in the shell under USDA continuous inspection to label packages "U.S. Commercial" or "U.S. Select" and also "USDA Inspected."

The period for submission of comments ended September 23. No comments were received in response to publication of the proposal.

After consideration of all relevant matters presented, §§ 51.3521–3523 of the U.S. Standards for Grades of Mixed Nuts in the Shell are hereby amended as so proposed pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

It is hereby found that good cause exists for not postponing the effective date of this amendment beyond the date of publication hereof in the FEDERAL REGISTER, in that: (1) The 1968 packing season for mixed nuts is under way and it is in the interest of the public and the industry that this amendment be placed in effect at the earliest possible date; and (2) no special preparation is required on the part of members of the mixed nut industry or of others.

Accordingly this amendment shall become effective upon publication in the FEDERAL REGISTER.

Dated: September 26, 1968.

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

GENERAL

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended; 1090 as amended; 7 U.S.C. 1622, 1624.

GENERAL

§ 51.3520 General.

Any lot of mixed nuts in the shell which is classified as meeting the requirements of a U.S. Mixed Nut grade must conform to the mixture, size, and grade as set forth in one of the following grades. Each species of nut shall be graded individually in accordance with U.S. Standards currently in effect for that species. The percentages in the mixture shall be determined on the basis of weight, and each species must conform to the minimum and maximum percentages specified in the mixture as set forth in §§ 51.3521–51.3523. A composite sample shall be drawn to determine mixture, size, and grade. When any species in the lot fails to meet the requirements as to mixture, size, or grade, the entire lot will fail to meet the U.S. Mixed Nut grade requirements.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

GRADES

§ 51.3521 U.S. Extra Fancy.

Species of nut	Allowable mixture		Minimum size	Minimum grade
	Minimum percent	Maximum percent		
Almonds	10	40	25/64 inch	U.S. No. 1.
Brazils	10	40	Large	U.S. No. 1.
Filberts	10	40	Large	U.S. No. 1.
Pecans	10	40	Extra Large	U.S. No. 1.
Walnuts	10	40	Large	U.S. No. 1.

§ 51.3522 U.S. Fancy.

Species of nut	Allowable mixture		Minimum size	Minimum grade
	Minimum percent	Maximum percent		
Almonds	10	40	25/64 inch	U.S. No. 1.
Brazils	10	40	Medium	U.S. No. 1.
Filberts	10	40	Large	U.S. No. 1.
Pecans	10	40	Large	U.S. No. 1.
Walnuts	10	40	Medium	U.S. No. 1.

§ 51.3523 U.S. Commercial or U.S. Select.

Species of Nut	Allowable mixture		Minimum size	Minimum grade
	Minimum percent	Maximum percent		
Almonds	5	40	25/64 inch	U.S. No. 1.
Brazils	5	40	Medium	U.S. No. 1.
Filberts	5	40	Medium	U.S. No. 1.
Pecans	5	40	Medumi	(a) External quality: U.S. No. 1. (b) Internal quality: 75 percent U.S. No. 1 quality with not more than 10 percent seriously damaged kernels, including therein not more than 6 percent which are rancid, moldy, decayed, or damaged by insects.
Walnuts	5	40	Baby	(a) External quality: 85 percent U.S. No. 1 quality. (b) Internal quality: 85 percent U.S. No. 1 quality, except that the lot need only meet the requirements for U.S. No. 2 grade for kernel color; with not more than 8 percent seriously damaged kernels, includin therein not more than 5 percent which are damaged by insects.

[F.R. Doc. 68-11906; Filed, Sept. 30, 1968; 8:50 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

MISCELLANEOUS AMENDMENTS

On April 11, 1968, there was published in the FEDERAL REGISTER (33 F.R. 5625), a notice of proposed rule making concerning amendments of administrative instructions and regulations supplemental to the qurantine relating to the interstate movement of Hawaiian fruits and vegetables (7 CFR 318.13a, 318.13-1 et seq.). After due consideration of all matters presented, and pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), the provisions in 7 CFR Part 318 are amended by changing §§ 318.13(b), 318.13a, 318.13-1 through 318.13-6, and 318.13-8 through 318.13-12, and by adding §§ 318.13-15 through 318.13-17, as follows:

§ 318.13 [Amended]

1. Section 318.13(b) is amended by adding before the period at the end, the following: ", or on the movement of coconuts from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States."

2. Section 318.13a is amended by changing the section heading and by amending paragraph (a)(4). As amended, § 318.13a reads as follows:

§ 318.13a Administrative instructions providing exemptions from specified requirements.

(a) The following fruits, vegetables, and other products may be moved from Hawaii into or through Guam without certification or other restriction under this subpart:

(1) [Reserved]

(2) Cut flowers, as defined in § 318.13-1(c).

(3) All fruits and vegetables designated in § 318.13-2(b).

(4) Beets, rutabagas, and turnips; when without tops.

(b) Section 318.13-13 shall not apply with respect to the movement of surface or air traffic from Hawaii to Guam.

3. Section 318.13-1 is amended by changing paragraphs (b) and (c) and adding paragraphs (1), (m), and (n), to read, respectively, as follows:

§ 318.13-1 Definitions.

* * * * *

(b) *Fruits and vegetables.* The more or less succulent portions of food plants, and parts thereof, in raw or unprocessed state, such as bananas, pineapples, potatoes, ginger roots, tomatoes, peppers, mellons, citrus, mangoes, etc.

(c) *Cut flowers.* Any cut blooms, fresh foliage customarily used in the florist trade, and dried decorative plant material.

* * * * *

(l) *Compliance agreement.* An agreement to comply with stipulated conditions as prescribed under § 318.13-3(b) or § 318.13-4(b), executed by any person to facilitate the interstate movement of regulated articles under this subpart.

(m) *Limited permit.* A document issued by an inspector for the interstate movement of regulated articles to a specified destination for consumption, or limited utilization or processing, or treatment, in conformity with a compliance agreement.

(n) *Director.* The Director of the Plant Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, or any officer or employee of the Division to whom authority to act in his stead has been or may hereafter be delegated.

§ 318.13-2 [Amended]

4. Section 318.13-2(b) is amended by deleting from the list of fruits and vegetables therein, the item "Coconuts (Cocos nucifera), in mature green or mature brown condition."

5. Section 318.13-3 is amended by redesignating paragraph (b) as paragraph (c); by revising paragraph (a); and by adding a new paragraph (b). As amended, § 318.13-3 reads as follows:

§ 318.13-3 Conditions of movement.

(a) *To any designation.* Any regulated articles may be moved interstate from Hawaii in accordance with this subpart to any destination if (1) such movement is authorized by a valid certificate and is made in accordance with the conditions of any applicable compliance agreement, or (2) the articles are exempted from certificate or limited permit requirements by administrative instructions.

(b) *To restricted destinations.* Smooth Cayenne pineapples; fresh fruit cocktail; inflight baskets of fruit; and cut flowers as defined in § 318.13-1(c) (except cut blooms of gardenia, mauna loa, and jade vine, and leis thereof) may be moved interstate from Hawaii under limited permit, to a destination specified in the permit, directly from an establishment operated in accordance with the terms of a compliance agreement executed by the operator of the establishment, if the articles have not been exposed to infestation and they are not accompanied by any articles prohibited interstate movement under this subpart.

(c) *Segregation of certified articles.* Articles certified after treatment in accordance with § 318.13-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Hawaii must be segregated and protected in a manner as required by the inspector.

6. Section 318.13–4 is amended to read as follows:

§ 318.13–4 Conditions governing the issuance of certificates or limited permits.

Certificates or limited permits may be issued for the movement of articles allowed movement in accordance with the regulations in this subpart under the following conditions:

(a) *Certification on basis of inspection or nature of lot involved.* Fruits and vegetables designated in § 318.13–2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation and infection, or without such inspection when the inspector determines that the lot for shipment is of such a nature that no danger of infestation or infection is involved.

(b) *Certification on basis of treatment.* Fruits, vegetables, and other products designated in § 318.13, which are not listed in § 318.13–2(b) and for which treatments may be approved by the Director of the Plant Quarantine Division, may be certified if such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure and if the articles were handled after such treatment in accordance with conditions prescribed in a compliance agreement executed by the applicant for the certificate or were handled after such treatment under such supervision of an inspector as the inspector may require. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.

(c) *Limited permits.* Limited permits may be issued by an inspector for the movement of noncertified regulated articles designated in § 318.13–3(b), to specified destinations for consumption, or limited utilization or processing, or treatment.

(d) *Compliance agreements.* As a condition of issuance of a limited permit, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance agreement is required, the person applying for the permit or certificate must sign a compliance agreement stipulating that he will use all such permits or certificates issued to him in accordance with the provisions thereof and of the compliance agreement; will maintain at his establishment such safeguards against the establishment and spread of infestation and infection and comply with such conditions as to the maintenance of identity, handling (including post treatment handling), and interstate movement of regulated articles under such permits or certificates and the cleaning and treatment of means of conveyance and containers used in such movement of the articles, as may be required by the inspector in each specific case to prevent the spread of infestation or infection; and will allow inspectors to inspect the establishment and operations thereof.

7. Section 318.13–5 is amended by deleting therefrom the sentence reading, "All costs, including storage, transportation, and labor incident to inspection, other than the services of the inspector shall be paid by the shipper." As amended, § 318.13–5 reads as follows:

§ 318.13–5 Application for inspection.

Persons intending to move any articles that may be certified in accordance with the provisions of § 318.13–4 shall make application for inspection or treatment on forms provided for this purpose as far as possible in advance of the contemplated date of shipment. They will also be required to prepare, handle, and safeguard such articles from infestation or reinfestation, and to assemble them at such points as the inspector may designate, placing them so that inspection may be readily made. Blank forms [1] for use in making applications for inspections will be furnished free upon request to the U.S. Department of Agriculture, Plant Quarantine Division, Honolulu, Hawaii.

8. Section 318.13–6 is amended to read as follows:

§ 318.13–6 Type and marking of containers; certificate or limited permit to accompany shipment, exception.

(a) *Containers.* Each container of articles for which a certificate or limited permit is required under the regulations in this subpart shall be new or of materials approved by an inspector and shall be plainly marked for identification purposes as required by the inspector, and, except as provided in paragraph (b), of this section, shall be accompanied by a certificate or limited permit issued in compliance with the regulations in this subpart. In the case of shipments consisting of regulated articles in more than one container or in bulk, the certificate or limited permit covering the lot shall be attached to or stamped on the accompanying waybill, manifest, or bill of lading.

(b) *Identification of precleared shipments.* Certificates or limited permits need not accompany regulated articles moving interstate from Hawaii as air cargo or containerized cargo on ships when (1) such articles have been inspected or treated and precleared in Hawaii under § 318.13–10, (2) the carrier has on file documentary evidence that a valid certificate or limited permit was issued to cover such movement, and (3) a notation of such documentation is made by the carrier on the waybill that accompanies the shipment.

9. In § 318.13–8 the first sentence is amended and the section now reads as follows:

§ 318.13–8 Inspection of vessels.

All ships, vessels, and other surface craft from Hawaii, upon coming within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, shall be subject to examination by inspectors for the purpose of ascertaining by inspection whether any of the articles or plant pests prohibited movement by the quarantine and regulations in this subpart or part 330 of this chapter are contained in such ships, vessels, or other surface craft, or in cargo containers in such craft, or whether there remains any infestation therefrom. Such inspection will be made at the discretion of the inspector, either in the stream or at a pier, wharf, or mole within the confines of any port in the United States, other than in Hawaii. If inspection is made in the stream, the ship, vessel, or other surface craft shall remain in the quarantine or inspection area until the inspector has notified the master or other responsible ship's officer, in writing, that further detention in quarantine for inspection purposes is not required. If inspection is made at a pier, wharf, or mole, the master or other responsible ship's officer shall not permit the unloading of any cargo, stores, baggage, or other personal belongings of the passengers and crew until he receives the written notification referred to above from the inspector. Inspection shall be made only between the hours of sunrise and sunset, and any ship, vessel, or other surface craft arriving after sunset shall remain at anchor in the quarantine or inspection area until inspection can be made on the following morning: *Provided,* That inspection between the hours of sunset and sunrise may be made when the inspector has been furnished advance information of the approximate hour of arrival, and the number of passengers carried, if any, and when facilities satisfactory to the inspector are provided both aboard the ship, vessel, or other surface craft and on the pier for adequate lighting and availability of stores, quarters, and baggage for inspection, as well as transportation to and from the ship, vessel, or other surface craft in the quarantine or inspection area, if necessary.

10. In §§ 318.13–9, 318.13–10, 318.13–11, and 318.13–12, the phrase "or Part 330 of this chapter" is inserted in the appropriate places; and in § 318.13–12 paragraph titles are provided and the second sentence of paragraph (b) is amended. As amended, §§ 318.13–9, 318.13–10, 318.13–11, and 318.13–12 read, respectively, as follows:

§ 318.13–9 Disinfection of vessels.

Any ship, vessel, or other surface craft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles which are subject to the quarantine and regulations in this subpart infected or infested with any of the injurious insects designated in the quarantine or to be contaminated with any article or plant pest prohibited movement by said quarantine and regulations or Part 330 of this chapter shall be immediately disinfected by the person in charge or possession of such ship, vessel,

[1] Form PQ–170.

or other surface craft under the supervision of an inspector and in the manner prescribed by him.

§ 318.13–10 Inspection of aircraft.

All aircraft arriving from Hawaii at a port within the territorial limits of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall be subject to examination by inspectors for the purpose of ascertaining by inspection if any article or plant pest the movement of which is prohibited by the quarantine and regulations in this subpart or Part 330 of this chapter is contained in any such aircraft, or if any infestation from such prohibited articles or pests remains. Except in the case of forced landings, all aircraft moving between Hawaii and the continental United States, Puerto Rico, or the Virgin Islands of the United States, shall, upon coming within the territorial limits of the continental United States, Puerto Rico, or said Virgin Islands, land at an airport of entry, unless permission to land elsewhere than at an airport of entry is first granted by the Commissioner of Customs, Washington, D.C., with concurrence of the Plant Quarantine Division, and shall remain there until inspected and released by the inspector. No baggage, cargo, or other articles shall be removed from the aircraft until such removal has been authorized by an inspector: *Provided*, That in the case of forced landings by such aircraft, the aircraft commander or operator shall not allow any baggage, cargo, or other articles to be removed therefrom, unless such removal is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft shall communicate with the nearest plant quarantine officer and make a full report of the circumstances of the flight and of the forced landing: *Provided further*, That aircraft proceeding from Hawaii to or through the continental United States, Puerto Rico, or the Virgin Islands of the United States may, at the discretion of an inspector, be inspected immediately prior to the departure of such aircraft from Hawaii in lieu of inspection at the port of arrival, and when such aircraft, its cargo, stores, and baggage and other personal effects of passengers and crew members have been inspected and found free of articles or plant pests, the movement of which is prohibited by the quarantine and regulations in this subpart or Part 330 of this chapter, the inspector shall issue a certificate to that effect for delivery to the pilot or person in charge of the aircraft as evidence for later presentation at the port of arrival that such inspection has been made.

§ 318.13–11 Disinfection of aircraft.

Any aircraft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles subject to the quarantine and regulations in this subpart that are infested or infected with any of the injurious insects designated in § 318.13 or which is found to be contaminated with any articles or plant pests prohibited movement by said quarantine and regulations or Part 330 of this chapter shall be immediately disinfected by the person in charge or possession of such aircraft, under the supervision of an inspector and in the manner prescribed by him; and any aircraft found upon inspection pursuant to the second proviso in § 318.13–10 prior to its departure from Hawaii for a port in the continental United States, Puerto Rico, or the Virgin Islands of the United States, to contain or to be contaminated with any articles or plant pests as aforesaid, shall be disinfected by the person in charge or in possession of such aircraft, under the supervision of an inspector and in a manner prescribed by him, before it will qualify for the certificate referred to in the said second proviso, in § 318.13–10.

§ 318.13–12 Inspection of baggage and cargo.

(a) *Baggage inspection.* All baggage and other personal effects of passengers and members of crews on ships, vessels, other surface craft or aircraft moving from Hawaii shall be subject to examination by an inspector to ascertain if they contain any of the articles or plant pests prohibited movement by the quarantine and regulations in this subpart or Part 330 of this chapter. Such baggage inspection shall be made, at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft while in a quarantine or inspection area, either at the port of departure in Hawaii or at the first or any subsequent port of arrival in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, and no baggage or other personal effects of passengers or crew members from Hawaii shall be released until said effects have been inspected and passed. Baggage inspections will not be performed until the person in charge or possession of the carrier ship, vessel, other surface craft, or aircraft provides sufficient space and adequate facilities thereon, or on piers or landing fields for such inspection.

(b) *Container inspection.* Inspectors may require that any box, bale, crate, bundle, package, trunk, bag, suitcase, or other container, carried as ships' stores, cargo, or otherwise, by any ship, vessel, other surface craft, or aircraft moving between Hawaii and the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, be opened for inspection to determine whether any article or plant pest prohibited movement by the quarantine and regulations in this subpart or Part 330 of this chapter is present. If any such prohibited article, or any plant pest or any fruit or vegetable infested with plant pests, is found, the inspector may order the return of the article to the place of origin under safeguards satisfactory to him, or otherwise dispose of it, or such part thereof as in his judgment is necessary to comply with the quarantine and regulations in this subpart and Part 330 of this chapter, in accordance with section 10 of the Plant Quarantine Act and section 105 of the Federal Plant Pest Act (7 U.S.C. 164a, 150dd) and instructions issued by the Director of the Plant Quarantine Division.

(c) *Cargo loading or unloading.* No cargo shall be loaded on or unloaded from any ship, vessel, other surface craft, or aircraft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, either at the first or any subsequent port of arrival where passengers are disembarked, without authorization of the inspector in charge of the inspection of passengers' baggage.

1. Sections 318.13–15, 318.13–16, and 318.13–17 are added as proposed, to read, respectively, as follows:

§ 318.13–15 Parcel post inspection.

Inspectors are authorized in accordance with the postal laws and regulations and in cooperation with employees of the U.S. Post Office Department, to inspect parcel post packages placed in the mails in Hawaii and destined to other parts of the United States, to determine whether such packages contain fruits, vegetables, or other regulated articles, the movement of which is not authorized under this subpart, to examine such articles for plant pests, and to notify the postmaster in writing of any violation of this subpart or Part 330 of this chapter in connection therewith.

§ 318.13–16 Costs and charges.

Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the one requesting such services. The Division will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical movement of regulated articles or plant pests.

§ 318.13–17 Cancellation of certificates, limited permits, or compliance agreements.

Any certificate, limited permit, or compliance agreement that has been issued in accordance with this subpart may be withdrawn or canceled by the Director, after notice and reasonable opportunity to present views has been accorded to the party to whom such document has been issued, if the Director determines that such party has failed to comply with any condition for the use of any such document imposed by this subpart.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee. 29 F.R. 16210, as amended, 30 F.R. 5799, as amended)

These amendments shall become effective upon publication in the FEDERAL REGISTER.

The foregoing amendments provide (§§ 318.13–3 and 318.13–4) for the issuance of limited permits that authorize

the movement for consumption, or limited utilization or processing, or treatment, of certain uncertified regulated articles in conformity with a compliance agreement; required the execution of a compliance agreement as a condition of the issuance of certificates for regulated articles based on treatment of the articles; and outlines the conditions that may be included in compliance agreements. Section 318.13–1 defines the terms "limited permit" and "compliance agreement." The term "Director" also is defined. The amendment of paragraph (c) of § 318.13–1 broadens the definition of cut flowers.

The amendment of § 318.13a deletes bitter melons, Cavendish bananas, Bluefield bananas (Gros Michel), and zucchini squash from the list of fruits and vegetables that may be moved without certification or other restriction from Hawaii into or through Guam. These articles are hosts of the oriental fruit fly that exists in Hawaii. This fruit fly has now been eradicated on the island of Guam. These four articles when destined to Guam are now required to be certified on the basis of the treatments prescribed in the administrative instructions in § 318.13–4b in the same manner as required for shipment to other destinations.

The amendment of § 318.13(b) excludes coconuts from the list of regulated articles, since experience has indicated that such a quarantine on the movement of coconuts from Hawaii is not necessary to prevent the spread of a dangerous plant disease or insect infestation. Reference to coconuts in §§ 318.13–2(b) and 318.13–3(a) are deleted accordingly.

The sentence regarding all costs is deleted from § 318.13–5, and the subject is expanded in § 318.13–16.

A change in § 318.13–6 provides for the adequate identification of noncertified articles moving under limited permit and in conformity with a compliance agreement.

The change in § 318.13–8 recognizes the increasing use of cargo containers in ocean transportation and the necessity for inspection of their contents.

New §§ 318.13–15 and 318.13–16 authorize plant quarantine inspection in U.S. Post Offices in cooperation with the Post Office Department and include a standardized statement concerning the costs that are assumed by the Department. Addition of the latter section permits deletion of a sentence relating to costs in § 318.13–5.

A new § 318.13–17 provides an orderly manner for canceling certificates, limited permits, and compliance agreements when the holder thereof has failed to carry out the applicable conditions.

Minor changes in §§ 318.13–4, 318.13–9, 318.13–10, 318.13–11, and 318.13–12 are made for clarification or editorial reasons.

These amendments are substantially the same as the proposals set forth in the notice of rule making. It does not appear that publication of a further notice of rule making and other public participation in rule making would make additional information available to this Department with respect to this matter. To the extent that the amendments relieve certain restrictions presently imposed they should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that the amendments impose restrictions, they are necessary to prevent the spread of dangerous plant pests and should be made effective promptly to accomplish their purposes in the public interest. Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice and public rule making procedure in connection with the amendments are impracticable and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of September 1968.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 68–11904; Filed, Sept. 30, 1968; 8:50 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Proportionate Shares for Farms for 1969 Crop of Sugar Beets Not Required

The following determination is issued pursuant to section 302 of the Sugar Act of 1948, as amended.

§ 850.213 Proportionate shares for the 1969 crop of sugar beets not required.

It is hereby determined that proportionate shares for farms will not be established in the Domestic Beet Sugar Area for the 1969 crop of sugar beets. This determination has been made on the bases and considerations set forth in the following statement.

STATEMENT OF BASES AND CONSIDERATIONS

Under the provisions of the Sugar Act, the Secretary is required to determine for each crop of sugar beets whether the production of sugar therefrom will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for the area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. The foregoing determination may be made for a crop only after notice and opportunity for an informal public hearing. If the Secretary determines that the production of sugar from any crop of sugar beets will, in the absence of proportionate shares, be in excess of the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, he is required to establish proportionate shares for farms in the area in accordance with the pertinent provisions of the Act.

General. Proportionate shares were not established for the 1967 and 1968 crops of sugar beets. For the 1967 crop, slightly less than 1,200,000 acres were planted, as compared with 1,217,000 acres for the restricted 1966 crop. For the 1968 crop, plantings approximate 1,510,000 acres.

The effective inventories (sugar on hand on January 1 plus that made after that date from the crop of the previous year's designation) of sugar on January 1, 1967, and January 1, 1968, were approximately 73.4 and 68.0 percent of the respective years' quotas. The foregoing percentages compare with a range of 82 to 90 percent indicated as appropriate by the Congress when the Act was amended in 1965. Because of the low inventory at the beginning of 1967, the beet industry was unable to meet its quota for that year.

With the larger 1968-crop plantings, the inventory on January 1, 1969, should increase moderately over that of a year earlier. The extent of such increase will depend upon marketings this calendar year and production from the 1968 crop in excess of such marketings.

Informal public hearing. At a public hearing in Denver, Colo., on July 25, 1968, views and recommendations were requested on the need for establishing proportionate shares for the 1969 crop. In the notice of hearing, persons advocating that proportionate shares be established were asked to include recommendations on the details of a program.

The representative appearing on behalf of farmers who planted about 75 percent of the 1968-crop acreage recommended that proportionate shares be established for the 1969 crop, with a national acreage requirement of 1,550,000 acres. He referred to the need for having sufficient sugar to meet marketing opportunities and at the same time avoid excessive supplies. He expressed the view that demand for beet acreage would not only continue in 1969, but would probably increase. In these circumstances it was the opinion of his principals that it would be in the best interests of the beet sugar industry to establish shares and avoid a competitive race for acreage history that would otherwise likely occur. Representatives of growers in three of the States delivering beets to factories serving localities that received commitments of acreage from the National Sugar Beet Acreage Reserve recommended that proportionate shares not be established. Those delivering beets to one of the new factories expressed the view that another year without shares was needed to increase the acreage to more economical levels in portions of the area served by the factory.

The spokesmen for growers in two other States in which localities received commitments from the National Sugar Beet

Acreage Reserve also recommended that proportionate shares not be established.

The representative of growers in the State having the largest beet acreage in 1968 recommended that proportionate shares not be established. He expressed the view that in light of estimated 1968-crop production and the probable resultant effective inventory on January 1, 1969, shares are not needed in 1969. He stressed the need and obligation of the beet sugar industry to establish and maintain inventories that will permit orderly marketings throughout the year and eliminate the need for heavy marketings of new crop sugar in the fourth quarter of the year.

As for several past crops, the spokesman for a major farm organization recommended that proportionate shares be established. Essentially, he expressed the view that the income of farmers, as well as their historical acreage rights, can best be protected with proportionate shares.

The representative of one locality that would like to establish the economic feasibility of growing beets on a commercial basis recommended that no shares be established. He asked that if it becomes necessary to establish shares, 500 acres be allocated to the locality to permit continued production studies.

The spokesman for 10 beet sugar companies, which produced about 80 percent of the sugar from the 1967 crop, expressed the view that no basis exists for establishing shares for the 1969 crop. He also made the following principal observations and expressed these additional views: That production from each of the 1965 through 1967 crops was less than the marketing opportunities thus resulting in the inability of the area to meet its 1967 and 1968 quotas. 1968-crop production will not be sufficient to add significantly to the inventory (which has been far too low during the last 2 years) on January 1, 1969; that with sugar yields per acre equivalent to the 1965–67-crop average, 1,600,000 acres would have to be planted to sugar beets in 1969 to achieve a minimum inventory level on January 1, 1970, which would permit the orderly marketing of the 1970 quota for the area; that the imposition of proportionate shares for the 1969 crop would probably result in less acreage than that planted for the 1968 crop unless the national acreage requirement were to be established at such a high level as would clearly demonstrate that restrictions are unnecessary; that if restrictions were placed in effect by the Secretary on the 1969 crop which would result in production below the necessary levels, the industry would be precluded by administrative determination from meeting the quota granted to it by Congress under the terms of the Sugar Act and that the industry's position would be jeopardized when the Congress again considers sugar legislation. This spokesman reported that a poll of processors on July 24, 1968, showed that according to their best estimates, and in consideration of factory capacity, availability of field labor and other relevant factors, a total of 1,587,000 acres would be planted to sugar beets for the 1969 crop if proportionate shares were not established.

Two other processors submitted briefs recommending that proportionate shares be established. It was pointed out that (1) either yields of sugar per planted acre for the 1968 crop above the 1965–67 average or 1968 marketings of less than the adjusted quota could result in a considerable increase in the inventory of January 1, 1969, and (2) the acreage likely to be planted in 1969 without restrictions and with reasonable sugar yields could result in an excessive inventory on January 1, 1970.

Determination. This determination provides that proportionate shares will not be established for farms in the Domestic Beet Sugar Area for the 1969 crop of sugarbeets.

As mentioned earlier, the extent of the increase in the effective inventory on January 1, 1969, above that on January 1 of this year will depend upon beet sugar marketings this year and the extent by which 1968-crop sugar production exceeds such marketings. If 1968 production equals the estimate made by processors prior to the July hearing and the area markets its adjusted quota, the inventory on January 1, 1969, will exceed that of a year earlier by about 225,000 tons. The resultant inventory would be about 76 percent of a 1969 quota that could reasonably be expected for the area. On the other hand, if 1968 sugar production per acre were to equal the 1963–67 average of 2.297 tons and the area were to fail by as much as 100,000 tons of marketing its 1968 quota, the January 1, 1969, inventory would exceed that of a year earlier by about 440,000 tons. This inventory would be about 83 percent of the 1969 quota that could be expected. It is reasonable to assume that the inventory at the beginning of next year will be near the mid-point of the above percentages, or about 80 percent of the likely 1969 quota.

Production from the 1969 crop could vary within a wide range. In addition to uncertainties as to the level of plantings, are those as to sugarbeet production per acre and sugar content. Assuming (1) an inventory on January 1, 1969, at about the level indicated in the previous paragraph, (2) the marketings of the likely 1969 quota and (3) reasonably average yield from a 1969 acreage of the 1,587,000 acres estimated by processors, the effective inventory on January 1, 1970, would be slightly above the midpoint (86 percent) of the range suggested by the Congress.

In view of the need for adequate beet sugar stocks to permit the orderly marketing of the area's quota and meet carryover requirements, it is deemed appropriate that the industry be given the opportunity to meet this goal. It is believed that this can better be realized without the rather inflexible and complex mechanism of proportionate shares which would have to be established at a level higher than yet achieved by the industry.

Based upon a careful review of the latest information available, it is determined that the production of sugar from the 1969 crop of sugar beets in the Domestic Beet Sugar Area, in the absence of proportionate shares, will not be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. 1131, 1132)

Effective date. Date of publication.

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

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68–11870; Filed, Sept. 30, 1968; 8:47 a.m.]

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

[Milk Order No. 62]

PART 1062—MILK IN ST. LOUIS-OZARKS MARKETING AREA

Order Regulating the Handling of Milk

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS AND FACILITIES

CLASSIFICATION

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 certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the St. Louis and Ozarks marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The St. Louis-Ozarks order, which amends and merges the St. Louis and Ozarks orders and all of the terms and conditions of the St. Louis-Ozarks order 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 St. Louis-Ozarks marketing area, and the minimum prices specified in the St. Louis-Ozarks 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 St. Louis-Ozarks 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 St. Louis-Ozarks 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 percent 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 the handler's own production; (ii) other source milk allocated to Class I 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.

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

The provisions of the St. Louis-Ozarks order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued March 18, 1968, the revised recommended decision of the Deputy Administrator, Regulatory Programs, was issued August 27, 1968, and the decision of the Secretary containing all amendment provisions of this order was issued September 19, 1968. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the orders effective October 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

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

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

(2) The issuance of this order which amends and merges the St. Louis and Ozarks orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the St. Louis-Ozarks order; and

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the orders regulating the handling of milk in the St. Louis, Mo., and Ozarks marketing areas (Parts 1062 and 1067, respectively) shall be amended and merged into one order which is to be designated as the "St. Louis-Ozarks marketing area." The merged order is to be designated Part 1062 in the Code of Federal Regulations and Part No. 1067 is hereby vacated. The handling of milk in the St. Louis-Ozarks marketing area shall be in conformity to and in compliance with the following terms and conditions:

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.).

§ 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 (l) 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;

(i) 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 § 1062.62(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 under 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(l) 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)(iii) 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 an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or 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 fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of 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.

Effective date: October 1, 1968.

Signed at Washington, D.C., on September 26, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-11902; Filed, Sept. 30, 1968; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 68-WE-30-AD; Amdt. 39-661]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 269A, 269A-1, 269A-2, and 269B Helicopters With Hughes P/N 269A5504-3 Lower Coupling Drive Shaft Installed

There have been failures of the lower coupling drive shaft, Hughes P/N 269A5504-3, due to cracks in the shaft, that resulted in engine overspeed and autorotative landings. Since this condition is likely to exist or develop in other helicopters having the same part number lower coupling drive shaft installed, an airworthiness directive is being issued to require an inspection and identification of all 269A5504-3 shafts presently installed, or to be installed, in the affected helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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

HUGHES. Applies to Model 269A Helicopter Serial Nos. 0011 through 0893 (except TH-55A helicopters), 269A-1 Helicopter Serial Nos. 0001 through 0041, 269A-2 Helicopter Serial Nos. 0001 and 0002, 269B Helicopter Serial Nos. 0001 through 0359 with P/N 269A5504-3 Lower Coupling Drive Shaft installed.

Compliance required within 25 hours of helicopter operations after the effective date of this airworthiness directive, unless previously accomplished.

To prevent failures of the lower coupling drive shaft (Hughes P/N 269A5504-3), by assuring the physical integrity of the shaft, including freedom from cracks:

(a) Inspect the entire shaft per Hughes Service Information Notice No. N-55, dated July 29, 1968, or later FAA-approved revisions, or any equivalent inspection approved by the Chief, Aircraft Engineering Division, Western Region.

(1) If cracks are found during this inspection, retire shaft from service and replace with a new shaft.

(2) If no cracks are found, identify the shaft per Item "m" of Hughes Service Information Notice No. N-55, or later FAA-approved revisions, or equivalent identification approved by the Chief, Aircraft Engineering Division, Western Region. The shaft may continue to be used in accordance with service life limitations.

(b) Determine that the inspection or identification, as appropriate, specified in paragraph (a) has been accomplished, prior to installing replacement lower coupling drive shafts (P/N 269A5504-3).

This amendment becomes effective October 4, 1968.

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

Issued in Los Angeles, Calif., on September 20, 1968.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[F.R. Doc. 68-11860; Filed, Sept. 30, 1968; 8:46 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

SUBCHAPTER B—PROCEDURAL RULES

PART 217—APPLICATION FOR TEMPORARY EXEMPTIONS FROM MOTOR VEHICLE SAFETY STANDARDS FOR LIMITED PRODUCTION MOTOR VEHICLES

Correction

In F.R. Doc. 68-11681, appearing at page 14457 of the issue for Thursday, September 26, 1968, the following changes should be made:

1. In § 217.5(b)(2) the word "county" in the fifth line is corrected to read "country".

2. In § 217.13(a)(2) and (4) the word "manufacturer" is corrected to read "manufacture".

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Commission Refuses To Grant Blanket Approval to Small Baking Company To Be Acquired by Anyone Including Corporations Subject to Commission Acquisition-Prohibition Orders

§ 15.291 Commission refuses to grant blanket approval to small baking company to be acquired by anyone including corporations subject to Commission acquisition-prohibition orders.

(a) The Commission rendered an advisory opinion in response to a premerger clearance request from the owner of a small baking company who wants to sell the business to anyone including corporations subject to Commission cease and desist orders containing provisions prohibiting further acquisitions without prior Commission approval.

(b) The applicant was advised by the Commission that it cannot grant the blanket approval requested. The Commission pointed out that corporations covered by Commission acquisition-prohibition orders are free, of course, to apply for prior approval to acquire the applicant's company in compliance with the order against the particular corporation.

(c) From the data submitted by the applicant, it appears that, while the population has declined in its trading area and its sales have produced reduced revenues, the company has continued to operate profitably. No evidence was presented of any attempts to sell the business to any other independent baker or to anyone presently outside the baking industry.

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: September 30, 1968.

By direction of the Commission.

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

[F.R. Doc. 68-11874; Filed, Sept. 30, 1968; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Paua Shell Being Described as "Marine Opal"

§ 15.292 Paua shell being described as "marine opal".

(a) The Commission rendered an advisory opinion in which it concluded that costume jewelry containing a centerpiece consisting of a small inset of paua shell could not be described as "marine opal".

(b) According to the Commission's opinion:

"* * * opal is a gem which is well known generally among the purchasing public and the trade and has certain well-established characteristics and properties. It is an inorganic mineral found in Australia which is far more expensive and preferable than the paua shell, which is an organic substance found in the ocean. Under these circumstances, therefore, the Commission has concluded that it would be decepitve to label a paua shell as "opal" on the well-established principle that the consumer is prejudiced if, upon giving an order for one thing, he is supplied with something else."

(c) Commenting upon the inadequacy of the word "marine" to remove the deceptive nature of the word "opal," the Commission said that the word "marine" would only serve to enhance that deception. It reached this conclusion because the word "marine" would convey the impression, contrary to fact, that this is a variety of opal found in the ocean, when in fact just the reverse is true, i.e., opal is an inorganic mineral found in the ground.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: September 30, 1968.

By direction of the Commission.

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

[F.R. Doc. 68-11875; Filed, Sept. 30, 1968; 8:47 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Commission Declines Ruling on Use of Term "Humus", and States Peat Industry Trade Practice Rules Apply If Material Comes Within Certain Definitions

§ 15.293 Commission declines ruling on use of term "humus", and states Peat Industry Trade Practice Rules apply if material comes within certain definitions.

(a) The Commission responded to a request for an advisory opinion (1) concerning the use of the term "humus" in proposed marketing of certain top soil material, and (2) whether there is anything in the proposed operation which is subject to Commission rules or regulations.

(b) The application was made by a company which wants to market certain soil material as humus. The company submitted a partial analysis of the material as follows:

	Top 1 foot	3-4 feet	7-8 feet
Marked:			
Water holding capacity	950 percent of its dry weight.	906 percent of its dry weight.	916 percent of its dry weight.
pH	6.85	6.90	6.89.
Moisture	82.2 percent	87.5 percent	83.8 percent.
Ash (dry basis)	6.8 percent	12.4 percent	9.0 percent.
Organic content (dry basis)	93.2 percent	87.6 percent	91.0 percent.

The Commission noted that the analysis presented above does not indicate the amount or degree of decomposition of organic matter that may have taken place, nor the mineral content of the soil.

(c) The Commission invited attention to this definition of humus in *Soil: The Yearbook of Agriculture (1957)*, prepared by the U.S. Department of Agriculture and published by the U.S. Government Printing Office (at page 759): "Humus—The well-decomposed, more or less stable part of the organic matter in mineral soils."

(d) The Commission declined to express an opinion on the marketing of the material as humus because an informed decision on the proposed course of action or its effects could be made only after extensive investigation or testing; requests for opinions in this category are ordinarily considered inappropriate for Commission advice under § 1.1(c) of the Commission's procedures and rules of practice. Applicant also asked whether there is anything in the proposed operation which comes under Commission rules or regulations.

(e) Applicant was advised that the Commission's Trade Practice Rules for the Peat Industry, as promulgated January 13, 1950 (16 CFR 185), apply to proposed operations if the material to be sold comes within the following definitions under such rules: "As used in these rules, the terms "industry product" and "peat" shall be understood as having the following meanings:

Industry Product: Any product marketed for use as a soil conditioner, or for any agricultural or horticultural purpose, which is composed, or is represented as being composed, wholly or in part of peat; also, any product marketed for any such purpose which is composed, or is represented as being composed, wholly or in part of a humus or muck derived from peat.

Peat: Any partly decomposed vegetable matter which is accumulated under water or in a water-saturated environment through decomposition of mosses, sedges, reeds, tule, trees, or other plants.

(f) The Commission invited attention to the note appended to Rule 3, calling for the voluntary nondeceptive disclosure of the degree of decomposition, and principal uses of the product, as well as the acid and ash content, and moisture holding capacity. If this practice is observed, the likelihood of deception should be much reduced, the Commission commented.

(g) With regard to the second question, the Commission again invoked § 1.1(c) of its procedures and rules of practice. An informed decision by the Commission on the presence of any peat, or of any humus or muck derived from peat, could not be made without extensive investigation or testing. Normal advisory opinion procedures do not provide for such testing or investigation.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Issued: September 30, 1968.

By direction of the Commission.

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

[F.R. Doc. 68–11876; Filed, Sept. 30, 1968; 8:48 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33–4925]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Prospectus Relating to Several Registration Statements

The Securities and Exchange Commission has amended Rule 429 (17 CFR 230.429) under the Securities Act of 1933. The proposal to amend 17 CFR 230.429 was published at 33 F.R. 10406 on July 20, 1968. This rule previously provided that where two or more registration statements were effective for different blocks of securities of the same class a combined prospectus could be used in connection with the offering and sale of the securities covered by all of such registration statements provided the prospectus contained the information with respect to the underwriting and distribution of the securities and the use of the proceeds therefrom which would be required in each prospectus if separate prospectuses were used.

The rule has been amended to provide that such a combined prospectus may be used even though the securities covered by the several registration statements are not all of the same class. Use of the combined prospectus is not permitted, however, where the latest registration statement is filed on Form S–14 (17 CFR 239.23). The reason for this is that a prospectus for securities registered on Form S–14 consists of a proxy statement supplemented by certain additional information. Such a prospectus is not deemed suitable for securities other than those for which that form may be used.

Rule 429 has been further amended to provide that where the use of a combined prospectus is permitted, the filing of the latest registration statement or compliance with an undertaking therein to file up-dated prospectuses as post-effective amendments shall be deemed to constitute compliance with similar undertakings in the earlier registration statements. This avoids the filing of separate amendments to each of the earlier statements.

Commission action. Section 230.429 of Chapter II of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 230.429 Prospectus relating to several registration statements.

(a) Where two or more registration statements have been filed by the same registrant, a prospectus which meets the requirements of the Act and the rules and regulations thereunder for use in connection with the securities covered by the latest registration statement shall be deemed to meet such requirements for use in connection with the securities covered by the earlier registration statements if such prospectus includes all of the information which would currently be required in a prospectus relating to the securities covered by the earlier statements: *Provided*, That this rule shall not apply if the latest registration statement was filed on Form S–14 (§ 239.23 of this chapter).

(b) Where the use of a combined prospectus is permitted by paragraph (a) of this section, the filing of such prospectus as a part of the latest registration statement, or compliance with any undertaking contained in such statement to file as an amendment thereto any prospectus which purports to meet the requirements of section 10(a)(3) of the Act, shall be deemed to constitute compliance with any similar undertaking contained in the earlier registration statements. The latest registration statement or any such amendment thereto shall indicate the earlier registration statements to which the combined prospectus relates but copies of such prospectus need not be filed with such earlier statements.

(Secs. 6, 7, 10, 19(a); 48 Stat. 78, 81, 85, as amended; 15 U.S.C. 77f, 77g, 77j, 77s)

The foregoing action was taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, and 19(a) thereof. Since procedure under the rule is optional with registrants and since the amendments relax previous limitations upon such procedure, the Commission finds that the amended rule may be made effective immediately. Accordingly, the amended rule shall become effective upon publication September 23, 1968.

By the Commission, September 23, 1968.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68–11864; Filed, Sept. 30, 1968; 8:47 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER NATURAL GAS ACT

[Docket Nos. AR61–2 et al.]

PART 154—RATE SCHEDULES AND TARIFFS

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

South Louisiana Area Rates; Small Producer Certificates of Public Convenience and Necessity

SEPTEMBER 25, 1968.

On May 10, 1961, the Federal Power Commission issued an order, published May 17, 1961, in the FEDERAL REGISTER (26 F.R. 4296–4300), instituting a rate proceeding in the Southern Louisiana Area (FPC Docket No. AR61–2) to determine the initial producer area rate or rates required by the public convenience and necessity and the just and reasonable rate or rates for the sale of natural gas produced in this geographic area. The order directed that a public hearing be held, provided for a prehearing conference, and stated that the proceeding "* * * shall also encompass the investigation of facts, conditions, practices, or matters relating to the sale of natural gas produced in said geographical area to aid in the enforcement of the provisions of the Act or in prescribing rules and regulations thereunder, and shall also encompass issues as to whether any rate or charge demanded, observed, charged or collected by any natural gas company in connection with such sale is unjust, unreasonable, unduly discriminatory or preferential." Persons wishing to participate in the prehearing conference or desiring to intervene in the proceedings were asked to advise the Commission of their interest by June 1, 1961. Following conclusion of the prehearing conference held June 26, 1961, and public notice, extensive public hearings were held before an examiner. Parties were afforded full opportunity to submit evidence, cross-examine witnesses, file rebuttal evidence and submit briefs. The examiner issued his initial decision on December 30, 1966. Parties were given until February 28, 1967, to file briefs on exceptions and until April 10, 1967, to file briefs opposing exceptions. The Commission heard oral

argument May 15 and 16, 1967. After consideration of the entire record in this proceeding, the Commission on September 25, 1968, issued Opinion No. 546.

In this opinion, the Commission directed the Secretary to cause prompt publication to be made in the FEDERAL REGISTER of a notice of availability of the entire opinion and of the following portions thereof: The findings paragraphs; ordering paragraphs (A) and (B) amending respectively Part 154 and § 157.40 of the Commission's regulations under the Natural Gas Act effective September 25, 1968. These items are set out below.

Excerpt from FPC Opinion No. 546, Southern Louisiana Area Rate Proceeding, FPC Docket No. AR61–2, 40 FPC ——, issued September 25, 1968.

FINDINGS AND ORDER

Upon consideration of the entire record in this proceeding, which includes public notice, public hearing with opportunity for the submission of oral and documentary evidence, for cross-examination and for the submisssion of rebuttal evidence, initial decision by an examiner, exceptions thereto, and oral argument before the Commission, the Commission further finds:

(1) Each of the respondents[1] listed in Parts I and II of Appendix A to this decision is, and at the time of all past sales with which we are here concerned was, a natural gas company within the meaning of the Natural Gas Act and is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of this Commission.

(2) Past, present, and proposed sales of natural gas to which the order herein applies are subject to the jurisdiction of this Commission.

(3) Rates for all sales of natural gas, subject to the jurisdiction of the Commission, by the producers in the Southern Louisiana area that are above the applicable area rates prescribed herein, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act and should be disallowed, and refunds should be required as hereafter provided.

(4) The just and reasonable rates for past, present, and proposed sales of natural gas to which this order applies are the applicable area rates set forth in ordering paragraph (A) below.

(5) Contracts providing for rates in excess of the applicable just and reasonable rates determined herein are in that respect unjust and unreasonable.

(6) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the Commission adopt the orders and regulations prescribed herein.

(7) Except as herein granted the exceptions to the initial decision and proposed order should be denied.

The Commission, acting pursuant to sections 4, 5, and 16 of the Natural Gas Act (52 Stat. 822, as amended, 823, 830; 15 U.S.C. 717c, 717d, 717o) and sections 553, 556, and 557 of title 5 of the United States Code (the Administrative Procedure Act, 60 Stat. 238, 239, 241, 242, as codified Sept. 6, 1966, by 80 Stat. 383, 384, 386, 387) orders:

(A) Part 154 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR Part 154) is amended by adding a new § 154.105 reading as follows:

§ 154.105 Area rates; Southern Louisiana area.

(a) From and after September 25, 1968, the effective date of Opinion No. 546 in Docket No. AR61–2, et al., 40 FPC ——, no rate or charge made, demanded or received under a rate schedule filed pursuant to this part for gas produced in the Southern Louisiana area shall exceed the applicable area rate prescribed by this section except in compliance with a specific order of the Commission.

(b) Applicable area rate means the base rate established by paragraph (c) of this section adjusted to the extent required by paragraph (d) of this section for the deviations, if any, from the quality standards established by that paragraph.

(c) The base area rates. The following base area rates are hereby established subject to any applicable adjustments for quality as provided in paragraph (d):

(1) For gas-well gas sold and to be sold pursuant to contracts dated before January 1, 1961, and any residue gas derived therefrom, and for all casinghead gas and any residue gas derived therefrom sold and to be sold:

(i) 18.5 cents per Mcf (at 15.025 p.s.i.a.) for gas subject to Louisiana production tax.

(ii) 17 cents per Mcf (at 15.025 p.s.i.a.) for gas not subject to Louisiana production tax.

(2) For gas-well gas sold and to be sold pursuant to contracts dated on or after January 1, 1961, but prior to October 1, 1968, and any residue gas derived therefrom:

(i) 19.5 cents per Mcf (at 15.025 p.s.i.a.) for gas subject to Louisiana production tax.

(ii) 18 cents per Mcf (at 15.025 p.s.i.a.) for gas not subject to Louisiana production tax.

(3) For gas-well gas sold and to be sold pursuant to contracts dated on or after October 1, 1968, and any residue gas derived therefrom:

(i) 20 cents per Mcf (at 15.025 p.s.i.a.) for gas subject to Louisiana production tax.

(ii) 18.5 cents per Mcf (at 15.025 p.s.i.a.) for gas not subject to Louisiana production tax.

(4) "Gas-well gas" means gas from dry gas reservoirs and gas condensate reservoirs and gas from gas-cap wells.

(d) Quality standards and adjustments to the base area rates.

(1) The standards for pipeline quality gas are set forth below. The base area rates fixed in paragraph (c) of this section shall be adjusted for any deviations from such standards in the case of contracts dated on or after October 1, 1968. However, no such adjustments shall be required in the case of contracts dated prior to October 1, 1968, with the exception of the B.t.u. content adjustment.

(i) *Hydrogen sulphide.* The gas shall not contain more than 1 grain of hydrogen sulphide per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (10 gr. per Mcf).

(ii) *Total sulphur.* The gas shall not contain more than 20 grains of total sulphur per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (200 gr. per Mcf).

(iii) *Water content.* The gas shall not contain in the aggregate more than 7 pounds of water, either in the form of liquid or vapor, per million cubic feet of gas at 60° F. and 14.73 p.s.i.a. (0.007 lbs. per Mcf).

(iv) *Carbon dioxide.* The gas shall not contain more than 3 percent by volume of carbon dioxide.

(v) *Other impurities.* Pipeline quality gas shall contain no oxygen, dirt, dust, gum, or other impurity in sufficient amounts to require the buyer to incur processing costs to eliminate such impurities in order for the gas to meet either customary commercial standards or the customary requirements of any of the interstate pipelines in the area.

(vi) *B.t.u. adjustment.* The maximum standard will be 1,050 B.t.u.'s per cubic foot of gas, saturated with water vapor, at 60° F. and 14.73 p.s.i.a., and the minimum standard will be 1,000 B.t.u.'s per cubic foot of gas, saturated with water vapor, at 60° F. and 14.73 p.s.i.a. For gas with more than 1,050 B.t.u.'s per cubic foot, upward adjustments shall be made on a proportional basis from a base of 1,050 B.t.u.'s. For gas with less than 1,000 B.t.u.'s per cubic foot, downward adjustments shall be made on a proportional basis from a base of 1,000 B.t.u.'s.

(vii) *Delivery pressure.* The gas shall be delivered at a pressure sufficient to enter the buyer's pipeline except that a minimum of 800 p.s.i.g., must be available at the point of delivery.

(viii) *Delivery point.* The gas shall be delivered at a central point. A central point includes a central point in the field, the tailgate of a natural gas processing plant, an off-shore platform to the buyer's line, and a point on the buyer's pipeline.

(2) When a purchaser buys gas which deviates from the quality standards established in subparagraph (1) of this paragraph, the base area rate fixed in paragraph (c) of this section shall be adjusted for any deviations from such standards as follows:

(i) In the case of contracts dated on or after October 1, 1968, the applicable base area rate shall be adjusted downward by the net cost (actually incurred

[1] Where the term "respondents" is used in the finding and ordering paragraphs hereinafter set forth, it is to be regarded as referring to all named respondents in the Commission orders issued in this case, and to all parties on whose behalf such named respondents have filed FPC gas rate schedules for sales of gas produced in the Southern Louisiana area.

prior to ultimate consumption), of bringing the gas up to standard. If the gas is brought up to standard by the purchaser, a reasonable return upon the net investment should be included as part of the cost incurred in bringing the gas up to pipeline quality. If such processing reduces the volume of the gas, the purchaser shall pay for only the volume remaining after processing.

(ii) The applicable base area rate shall be adjusted downward or upward by the amount of any applicable B.t.u. adjustment as set forth in subparagraph (1) (vi) of this paragraph.

(iii) In the case of delivery by seller of gas containing carbon dioxide in excess of the standards herein permitted, notwithstanding anything to the contrary in subdivision (2) (ii) of this subparagraph, the seller shall have the alternative of receiving payment for the total volume of gas delivered, including the carbon dioxide: *Provided* That the B.t.u. content of the gas is measured before removal of the carbon dioxide for the purposes of the B.t.u. adjustments specified in this order, or receiving payment for the volumes exclusive of the carbon dioxide with the B.t.u. content measured by the volumes of gas only.

(e) The Southern Louisiana area consists of the portion of the State of Louisiana lying south of the 31° parallel and including all areas, both State and Federal, in the Gulf of Mexico off the shore of Louisiana.

(f) Any seller seeking to charge rates in excess of the applicable area rate or requesting a change in the applicable area rates must file a petition for waiver or amendment of this section pursuant to § 1.7(b) of this chapter (18 CFR 1.7(b)) fully justifying the relief sought in light of Opinion No. 546. Unless and until the Commission grants the petition, the seller may not file rate increases in excess of the applicable area rate herein prescribed.

(B) Section 157.40 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 157.40) is amended by adding a new paragraph (d) reading as follows:

§ 157.40 Small producer certificates of public convenience and necessity.

* * * * *

(d) *Availability to small producers operating in the Southern Louisiana area.* Small Producer Certificates are also available to Small Producers operating in the Southern Louisiana area with respect to their small producer sales in that area. Small Producer Certificates will authorize sales at prices no higher than the applicable area rates specified in § 154.105. Applications for Small Producer Certificates in the Southern Louisiana area shall contain the information required in subparagraphs (2), (3), (4), of paragraph (b) of this section.

Copies of the complete text of Opinion No. 546 may be obtained in person or by written request from the Office of Public Information of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-11842; Filed, Sept. 30, 1968; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 18—MILK AND CREAM

Nonfat Dry Milk Fortified With Vitamins A and D; Confirmation of Effective Date of Order Establishing Identity Standard

In the matter of establishing a definition and standard of identity for nonfat dry milk fortified with vitamins A and D:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 1, 1968 (33 F.R. 10926). Accordingly, the regulation (21 CFR 18.545) promulgated by that order became effective September 1, 1968.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11882; Filed, Sept. 30, 1968; 8:48 a.m.]

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

Ethion

No comments were received in response to the notice published in the FEDERAL REGISTER of August 9, 1968 (33 F.R. 11362), proposing the establishment of tolerances for residues of the insecticide ethion (*O,O,O',O*-tetraethyl *S,S'*-methylene bisphosphorodithioate) in or on the raw agricultural commodities: Fat of cattle at 2.5 parts per million; and meat and meat byproducts of cattle at 0.75 part per million. Also, no requests were received for referral of the proposal to an advisory committee pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act.

The Commissioner of Food and Drugs concludes that the amendments should be adopted as proposed. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and delegated to the Commissioner (21 CFR 2.120), § 120.173 is amended by inserting after "5 parts per million * * *" a new tolerance "2.5 parts per million * * *" and after "1 part per million * * *" a new tolerance "0.75 part per million * * *" and by revising the zero tolerance, as follows:

§ 120.173 Ethion; tolerances for residues.

* * * * *

2.5 parts per million in or on fat of cattle.

* * * * *

0.75 part per million in or on meat and meat byproducts of cattle.

* * * * *

Zero in milk.

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

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

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

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11883; Filed, Sept. 30, 1968; 8:48 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER L—LEASING AND PERMITTING

PART 131—LEASING AND PERMITTING

San Xavier Reservation et al.

SEPTEMBER 24, 1968.

San Xavier Reservation, Salt River Pima-Maricopa Reservation, Gila River Reservation, San Carlos Apache Reservation.

On page 11118 of the FEDERAL REGISTER of August 6, 1968, there was published a notice of intention to amend 25 CFR 131 by the revision of § 131.8(a) and the addition of a new § 131.20.

The purpose of these changes is to implement long-term leasing authorities contained in the Acts of November 2, 1966 (80 Stat. 1112); December 8, 1967 (81 Stat. 559); and December 10, 1967 (81 Stat. 560).

Interested persons were given an opportunity to submit their comments, suggestions, or objections in writing on the proposed amendment and addition within 30 days from the date of publication of the notice in the FEDERAL REGISTER. During the 30-day period, no comments, suggestions, or objections were received. Accordingly, the proposed amendments are hereby adopted without change, as set forth below, and are effective upon publication in the FEDERAL REGISTER.

ROBERT L. BENNETT,
Commissioner.

§ 131.8 Duration of leases.

* * * * *

(a) Leases for public, religious, educational, recreational residential, or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed 25 years, except such leases of land on the Hollywood (formerly Dania) Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; the Fort Mohave Reservation, Calif., Ariz., and Nev.; the Pyramid Lake Reservation, Nev.; the Gila River Reservation, Ariz.; the San Carlos Apache Reservation, Ariz.; and land on the Colorado River Reservation, Ariz., and Calif., as stated in § 131.18; which leases may be made for terms of not to exceed 99 years.

* * * * *

§ 131.20 San Xavier and Salt River Pima-Maricopa Reservations.

(a) *Purpose and scope.* The Act of November 2, 1966 (80 Stat. 1112), provides statutory authority for long-term leasing on the San Xavier and Salt River Pima-Maricopa Reservations, Ariz., in addition to that contained in the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415). When leases are made under the 1955 Act on the San Xavier or Salt River Pima-Maricopa Reservations, the regulations in §§ 131.1 through 131.14 and in § 131.19 apply. The purpose of this § 131.20 is to provide regulations for implementation of the 1966 Act. The 1966 Act does not apply to leases made for purposes that are subject to the laws governing mining leases on Indian lands.

(b) *Duration of leases.* Leases made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes may be made for terms of not to exceed 99 years. The terms of a grazing lease shall not exceed 10 years; the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed 10 years; and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed 40 years. No lease shall contain an option to renew which extends the total term beyond the maximum term permitted by this section.

(c) *Required covenant and enforcement thereof.* Every lease under the 1966 Act shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act that causes waste or a nuisance or which creates a hazard to health of persons or to property wherever such persons or property may be.

(d) *Notification regarding leasing proposals.* If the Secretary determines that a proposed lease to be made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes will substantially affect the governmental interests of a municipality contiguous to the San Xavier Reservation or the Salt River Pima-Maricopa Reservation, as the case may be, he shall notify the appropriate authority of such municipality of the pendency of the proposed lease. The Secretary may, in his discretion, furnish such municipality with an outline of the major provisions of the lease which affect its governmental interests and shall consider any comments on the terms of the lease affecting the municipality or on the absence of such terms from the lease that the authorities may offer. The notice to the authorities of the municipality shall set forth a reasonable period, not to exceed 30 days, within which any such comments shall be submitted.

(e) *Applicability of other regulations.* The regulations of §§ 131.1 through 131.14 and in § 131.19 shall apply to leases made under the 1966 Act except where such regulations are inconsistent with this § 131.20.

(f) *Mission San Xavier del Bac.* Nothing in the 1966 Act authorizes development that would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

[F.R. Doc. 68-11848; Filed, Sept. 30, 1968; 8:46 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 21—HOT SPRINGS NATIONAL PARK; BATHHOUSE REGULATIONS

Hot Springs National Park, Ark.; Federal Registration Board, Officers; Fees; Conduct of Registered Physicians; Badges for Bath Attendants

Pursuant to the authority contained in section 3 of the Act of December 16, 1878 (20 Stat. 258, as amended; 16 U.S.C. 361), and section 3 of the Act of March 3, 1891 (26 Stat. 842, as amended; 16 U.S.C. 363), and sections 1–3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and section 1 of the Act of June 5, 1920 (41 Stat. 918, as amended; 16 U.S.C. 369), Part 21 of Title 36 of the Code of Federal Regulations is amended as set forth below.

The purpose of this amendment is to delete the limitation of 1 year on the term of the president of the Federal Registration Board, and thus to eliminate the set time for election of the president; to eliminate fees for examination and registration of physicians on the recommendation of the Federal Registration Board; to delete reference to the Army and Navy General Hospital, which is no longer in existence; and to delete the requirement that bath attendants wear badges.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, since this amendment will not impose any additional restrictions on the public, comment thereon is deemed to be unnecessary and not in the public interest. This revocation will thus take effect upon its publication in the FEDERAL REGISTER.

Part 21 is amended by deleting portions of § 21.4, revoking § 21.9, revoking paragraph (d) of § 21.14, and revoking § 21.19.

§ 21.4 Federal Registration Board, officers.

(a) * * *

(b) There shall be a president elected by the Board, who shall serve until his successor is elected and qualified. Should a vacancy occur in the office of the president by death, resignation or otherwise, such vacancy shall be filled by the Board at its first regular meeting next succeeding the date the vacancy occurs, or at a special meeting of the Board called for that purpose.

* * * * *

§ 21.9 Fees. [Revoked]

§ 21.14 Conduct of registered physicians.

* * * * *

(d) [Revoked]

§ 21.29 Badges for bath attendants. [Revoked]

Approved: September 25, 1968.

DAVID S. BLACK,
Under Secretary of the Interior.

[F.R. Doc. 68-11856; Filed, Sept. 30, 1968; 8:46 a.m.]

PART 21—HOT SPRINGS NATIONAL PARK; BATHHOUSE REGULATIONS

Hot Springs National Park, Ark.; Examining Board for Technicians

On page 11141 of the FEDERAL REGISTER of August 28, 1965, there was published a notice and text of a proposed amendment to § 21.15 of Title 36, Code of Federal Regulations. The purpose of this amendment is to include two current managers of bathhouses as members of the Examining Board for Technicians

and to increase the number of members required for a quorum.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Section 21.15 is amended by adding subparagraph (6) of paragraph (a) and revising paragraph (c) to read as follows:

§ 21.15 Examining Board for Technicians.

(a) * * * .

(6) Two persons who are currently engaged in managing bathhouses operating under contract with the Department of the Interior in Hot Springs.

* * * * *

(c) Six members present shall constitute a quorum. Any member undergoing disciplinary action or in suspension from duty shall not remain a member of the Board.

* * * * *

Approved: September 25, 1968.

DAVID S. BLACK,
Under Secretary of the Interior.

[F.R. Doc. 68-11855; Filed, Sept. 30, 1968; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 7—FLAMMABLE FABRICS ACT PROCEDURES

Notice of proposed rulemaking regarding the Department of Commerce proposal to issue procedures for the discharge of the Secretary's responsibilities under sections 4 and 17 of the Flammable Fabrics Act, as amended (sections 3 and 10, Public Law 90-189, 81 Stat. 568) was published in the FEDERAL REGISTER of July 3, 1968 (33 F.R. 9663). Interested persons were afforded the opportunity to submit written comments or suggestions to the Assistant Secretary for Science and Technology of the Department of Commerce.

On the basis of the comments received, several changes to the proposed procedures have been effected.

The final procedures are set forth below in the form of a new Part 7 that is hereby added to Title 15, Subtitle A, Code of Federal Regulations.

Subpart A—Procedures for the Development of Flammability Standards

Sec.
7.1 Purpose.
7.2 Definitions.
7.3 Records of proceedings.
7.4 Authority of the Secretary to obtain testimony or records by regulation or subpoena.
7.5 Advance notice of finding that a flammability standard may be needed.
7.6 Proceedings for development of a proposed flammability standard.
7.7 Publication of proposed flammability standard.
7.8 Participation of interested persons in rule-making proceedings.
7.9 Informal public oral hearings.
7.10 Adoption of a final flammability standard.
7.11 Effective date.
7.12 Exemption for items in inventory.
7.13 Petitions for rule-making.

Subpart B—National Advisory Committee for the Flammable Fabrics Act

7.21 Purpose.
7.22 Membership.
7.23 Compensation.
7.24 Organization.
7.25 Duties and procedures.

AUTHORITY: The provisions of this Part 7 issued under the authority of the Act of June 30, 1953, 67 Stat. 111, as amended by the Act of Dec. 14, 1967, 81 Stat. 568 (15 U.S.C. 1191 et seq.).

Subpart A—Procedures for the Development of Flammability Standards

§ 7.1 Purpose.

The purpose of this Subpart A is to establish procedures relating to the discharge of the responsibilities of the Secretary of Commerce under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193), as amended (sec. 3, Public Law 90-189, 81 Stat. 568, hereinafter referred to as the "Act"), or otherwise provided by law.

§ 7.2 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) "Secretary" means the Secretary of Commerce or his duly authorized delegate.

(b) "Article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals.

(c) "Interior furnishing" means any type of furnishing made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accommodation.

(d) "Fabric" means any material (except fiber, filament, or yarn for other than retail sale) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended for use or which may reasonably be expected to be used in any product as defined in paragraph (f) of this section.

(e) "Related material" means paper, plastic, rubber, synthetic film, or synthetic foam which is intended for use or which may reasonably be expected to be used in any product as defined in paragraph (f) of this section.

(f) "Product" means any article of wearing apparel or interior furnishing.

(g) "Person" means an individual, partnership, corporation, association, or any other form of public or business organization.

(h) "Flammability standard" means any standard (including conditions and manner of testing), or other regulation, including any labeling regulation, or any revision or amendment thereto, relating to the flammability of a fabric, related material, or product.

(i) "Written comments" means legible comments, data, arguments, views, or other information, submitted, in writing, by interested persons in at least four copies and for the public record.

§ 7.3 Records of proceedings.

Records of the Department of Commerce relating to rule-making proceedings which are made available for public inspection and copying in accordance with 5 U.S.C. 552 or other applicable laws or regulations, may be obtained at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 2122, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. Interested persons may obtain copies upon payment of the prescribed fees.

§ 7.4 Authority of the Secretary to obtain testimony or records by regulation or subpoena.

(a) Subsection 4(c) of the Act authorizes the Secretary to obtain from any person by regulation or subpoena issued pursuant thereto, such information in the form of testimony, books, records, or other writings as is pertinent to any findings or determinations which he is required or authorized to make under the Act.

(b) All information reported to or otherwise obtained by the Secretary pursuant to subsection 4(c) of the Act which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential for the purposes of section 1905 and withheld from the public record; except, however, that such information may be disclosed to other officers or employees concerned with carrying out the provisions of the Act or disclosed when relevant to any proceeding under the Act. Any information submitted to the Secretary which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 should be clearly so identified and should set forth adequate justification for its inclusion in this category. All such information should be submitted separately from comments for the public record.

§ 7.5 Advance notice of finding that a flammability standard may be needed.

Whenever the Secretary finds on the basis of investigations or research conducted under the authority of subsections 14 (a) or (b) of the Act that a flammability standard for a fabric, related material, or product may be needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage, he shall publish notice in the FEDERAL REGISTER that such standard may be needed, together with a concise statement of the basis therefor.

§ 7.6 Proceedings for development of a proposed flammability standard.

(a) Whenever notice is published under section 7.5, the Secretary shall also publish simultaneously notice in the FEDERAL REGISTER instituting proceedings for the development of an appropriate flammability standard, and inviting any interested person to submit written comments to the Secretary relative to:

(1) The finding published under § 7.5 that a flammability standard may be needed; and,

(2) The terms or substance of a flammability standard that might be adopted in the event that a final finding is made by the Secretary that such a flammability standard is needed.

(b) Written comments shall be postmarked or delivered within 30 days after publication of notice under this section, unless otherwise specified. All materials considered relevant to any statement of fact or argument should be submitted with such written comments.

(c) In order to obtain additional information for the development of a proposed flammability standard and to protect the public interest, the Secretary may invite the views of local, State, or Federal agencies or other interested persons, and may provide also to interested persons the opportunity for oral presentation, as provided in 5 U.S.C. 553, which may include an informal oral hearing.

§ 7.7 Publication of proposed flammability standard.

(a) As soon as practicable following the conclusion of the initial proceedings under section 7.6, the Secretary shall publish in the FEDERAL REGISTER:

(1) Notice withdrawing his finding that a new or amended flammability standard may be needed: *Provided, however,* That in no event shall the withdrawal of such finding operate to preclude the conduct of further investigation or research under subsections 14 (a) or (b) of the Act or to preclude the initiation of another proceeding regarding the same or similar subject matter under these procedures; or

(2) Notice of a proposed flammability standard.

(b) Notice of a proposed flammability standard under paragraph (a) (2) of this section shall include:

(1) The provisions of such proposed flammability standard, stated in objective terms; and

(2) The preliminary findings of the Secretary, together with a concise statement of the basis therefor, that such a flammability standard—

(i) Is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage;

(ii) Is reasonable, technologically practicable, and appropriate; and

(iii) Is limited to such fabrics, related materials, or products which have been determined to present such unreasonable risks.

§ 7.8 Participation of interested persons in rule-making proceedings.

(a) Within 30 days, unless otherwise specified, after publication of notice of a proposed flammability standard under § 7.7, any interested person may participate in these rule-making proceedings in accordance with 5 U.S.C. 553 by submitting written comments relevant to such proposed flammability standard.

(b) The Secretary may solicit the comments of local, State, or Federal agencies or other interested persons, and may provide also to interested persons the opportunity for oral presentation as provided in 5 U.S.C. 553, so as to assure the development of an appropriate standard and protect the public interest.

§ 7.9 Informal public oral hearings.

(a) The Secretary, in his discretion, may include in the notice published in the FEDERAL REGISTER under § 7.7, an invitation to any interested persons to participate in an informal oral hearing under 5 U.S.C. 553. If no provision for such hearing is contained in the published notice of a proposed flammability standard under § 7.7, any interested person may request, in writing, within fifteen (15) days after publication of such notice, an informal oral hearing under 5 U.S.C. 553. Upon receipt by the Secretary of such a request, an informal public oral hearing shall be granted and notice of this hearing shall be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof.

(b) 5 U.S.C. 556 and 557 do not apply to hearings held under this section. Unless otherwise specified, such hearings shall be informal, nonadversary proceedings, at which there are no formal pleadings or adverse parties. A stenographic transcript of such hearings and exhibits submitted thereat shall be made a part of the public record.

(c) Any oral hearing held under this section shall be conducted by a presiding officer designated by the Secretary and empowered to establish reasonable procedures governing the conduct of such hearing.

§ 7.10 Adoption of a final flammability standard.

(a) All oral and written comments and other materials received by the Secretary in accordance with any proceedings under this part shall be considered. Comments filed after expiration of the designated time periods may be considered insofar as practicable.

(b) As soon as practicable following the consideration of public comment under paragraph (a) of this section, and after consultation with the National Advisory Committee for the Flammable Fabrics Act, the Secretary shall publish in the FEDERAL REGISTER either:

(1) A final flammability standard stated in objective terms, and the Secretary's final findings with respect to the requirements set forth in subsection 4(b) of the Act, together with a concise statement of the basis of such findings; or

(2) Notice terminating, suspending, or amending the instant proceedings for the adoption of the flammability standard concerned.

(c) In no event shall notice of the termination or suspension of proceedings under this section operate to preclude the conduct of further investigation or research under subsections 14 (a) or (b) of the Act or to preclude the initiation of another proceeding regarding the same or similar subject matter under these procedures.

§ 7.11 Effective date.

Each flammability standard issued under this Subpart A shall become effective 12 months after publication in the FEDERAL REGISTER, unless the Secretary finds for good cause shown that an earlier or later effective date is in the public interest. Any such finding by the Secretary will be published in the FEDERAL REGISTER along with a concise statement of the reasons upon which it is based.

§ 7.12 Exemption for items in inventory.

Each flammability standard issued in accordance with this part shall exempt fabrics, related materials, or products in inventory or with the trade as of the date that such standard becomes effective: *Provided, however,* That if the Secretary finds that any such fabric, related material or product is so highly flammable as to be dangerous when used by consumers for the purposes for which is intended, he may under such conditions as he prescribes, withdraw or limit the exemption for such fabric, related material, or product. Any such finding by the Secretary will be published in the FEDERAL REGISTER along with a concise statement of the facts upon which it is based.

§ 7.13 Petitions for rule-making.

(a) Any interested person may petition the Secretary to issue, amend, or repeal a flammability standard or the procedural rules established in this part.

(b) Each petition filed under this section shall:

(1) Be submitted in duplicate to the Secretary;

(2) Set forth the text or substance of the proposed flammability standard or procedural rule, or proposed amendment thereto, or specify the flammability standard or procedural rule the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner in support of the action sought.

(c) Unless the Secretary otherwise specifies, no public hearing, argument, or other proceeding shall be held on a petition before its disposition. If the Secretary determines that a petition does not justify rule-making, he shall deny such petition. If the Secretary determines that the petition contains adequate justification, he shall take appropriate action in accordance with the provisions of the Act including where necessary the institution of proceedings to consider the issuance, amendment or repeal of the flammability standard or procedural rule concerned.

(d) The Secretary shall notify each petitioner, in writing, of the action taken on his petition.

(e) The filing of a petition under this section does not of itself stay the effective date of any flammability standard or procedural rule concerned.

Subpart B—National Advisory Committee for the Flammable Fabrics Act

§ 7.21 Purpose.

The purpose of this subpart B is to establish a National Advisory Committee for the Flammable Fabrics Act (hereinafter referred to as the "Committee") as provided under section 17 of the Flammable Fabrics Act, as amended (Sec. 10, Public Law 90–189; 81 Stat. 568, hereinafter referred to as the "Act"), or otherwise provided by law.

§ 7.22 Membership.

(a) The Committee shall be composed of not less than nine (9) members appointed by the Secretary of Commerce. It shall, in the judgment of the Secretary, be fairly representative of manufacturers, distributors, and the consuming public.

(b) All appointments shall be for a term of not more than 2 years. Any member may be reappointed, however, upon the expiration of his term.

(c) The Secretary shall also designate full-time salaried employees of the Department of Commerce as Chairman and alternate to the Chairman of the Committee. The Chairman and alternate to the Chairman shall not be members of the Committee.

§ 7.23 Compensation.

(a) Members of the Committee, except those who are officers or employees of the United States, are entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, while attending meetings or conferences of the Committee or otherwise engaged in business of the Committee.

(b) Members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in 5 U.S.C. 5703 while away from their homes or regular places of business.

(c) Payments made under this section shall not render members of the Committee employees or officials of the United States for any purpose.

§ 7.24 Organization.

(a) The Chairman, or alternate to the Chairman in his absence, shall preside at all meetings of the Committee and shall have the usual powers of a presiding officer. The Chairman shall make provision for the necessary secretarial services to the Committee. The Chairman may adjourn any meeting.

(b) All meetings of the Committee shall be called by the Secretary or by the Committee Chairman. The agenda for each meeting shall be formulated or approved by the Chairman, and furnished in advance to each member of the Committee, along with a copy of any proposed flammability standard to be considered by the Committee.

(c) Minutes shall be taken of all meetings of the Committee. Such minutes shall include, as a minimum, a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Committee. The accuracy of all minutes shall be certified to by the Chairman or alternate to the Chairman, in his absence, prior to the distribution of the minutes to the members of the Committee.

§ 7.25 Duties and procedures.

(a) The Secretary may consult with the Committee whenever such action is deemed appropriate by him and shall consult with the Committee before prescribing any final flammability standard under the Act.

(b) At the request of the Secretary or the Chairman, the Committee shall meet to consider the provisions of a proposed flammability standard, including the record of proceedings developed under subpart A of these procedures and other information relevant to the standard being considered.

(c) After the Committee has considered the provisions of a proposed flammability standard and record of proceedings in accordance with this section, each member shall be requested to prepare an individual report advising the Secretary, in writing, of his views and recommendations concerning the proposed flammability standard under consideration. Unless otherwise specified by the Secretary, such reports shall be submitted within 15 days after the conclusion of the Committee meeting concerned. Copies of each report will be furnished to all members of the Committee and will be available for inspection and copying at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 2122, Main Commerce Building, 14th Street between E Street and Constitution Avenue.

Effective date. This part shall become effective upon publication in the FEDERAL REGISTER.

Issued: September 26, 1968.

JOSEPH W. BARTLETT,
Acting Secretary of Commerce.

[F.R. Doc. 68–11950; Filed, Sept. 30, 1968; 8:50 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

PART 257—PAYMENT ON ACCOUNT OF DEPOSITS IN THE POSTAL SAVINGS SYSTEM

In the FEDERAL REGISTER for August 20, 1968, 33 F.R. 11779, there was published a notice of proposed rule making to govern payments by the Treasury Department to applicants for Postal Savings System accounts from the total amount of unpaid deposits, including the accrued interest due thereon, as shown by the books of the Board of Trustees of that System, transferred to the Secretary of the Treasury and held in trust for liquidation by payment to proper claimants pursuant to section 1 of the Act of March 28, 1966 (39 U.S.C. Supp. III, 5228). Interested persons were given 30 days in which to submit written data, views or arguments to the Commissioner of Accounts, U.S. Treasury Department, regarding the proposed regulations.

Comments received from several States on the provisions for application for escheat payment to States (§ 257.3) raised various substantive issues upon which State representatives wish to appear to present their views orally. These provisions will consequently require further time for consideration and are, therefore, withheld from this issuance. The Treasury Department finds that there is a need at this time for procedural regulations governing the payment on applications by individuals and hereby adopts and promulgates the remainder of the regulations as proposed, with clarifying changes in §§ 257.2 (d) and (e), as set forth below.

Effective date. These regulations shall become effective for all accounts classified by the Post Office Department as inactive accounts upon publication in the FEDERAL REGISTER. These regulations shall become effective for accounts classified by the Post Office Department as active accounts on a staggered basis beginning October 1, 1968, as of the dates particular postal data centers transfer to the Treasury Department the records thereof.

Dated: September 27, 1968.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

Sec.

AUTHORITY: The provisions of this Part 257 issued under 5 U.S.C. 301; 31 U.S.C. 725p; 7 GAO Manual 25.11.

§ 257.1 Scope of regulations.

The regulations in this part govern payment by the Treasury Department to applicants for Postal Savings System (hereinafter referred to as the System)

accounts from the total amount of unpaid deposits, including the accrued interest due thereon, as shown by the books of the Board of Trustees of the Postal Savings System, transferred to the Secretary of the Treasury and held in trust for liquidation by payment to proper claimants pursuant to section 1 of the Act of March 28, 1966 (39 U.S.C. Supp. III, 5228).

§ 257.2 Application for payments by individuals.

(a) *General requirements.* (1) Applicants for payment of System accounts shall make application on Form No. 315 to the Investments Branch, Bureau of Accounts, U.S. Treasury Department, Washington, D.C. 20226.[1] No application for less than the total amount of any account and of the interest accrued thereon will be honored. All the System certificates issued to the original depositor, signed by the applicant, and the supporting evidence as specified in paragraphs (b), (c), (d), or (e) of this section, or as determined necessary by the Secretary, shall accompany an application for payment. If all the certificates are not available, Form No. 607 signed by the applicant shall be submitted. If duplicate certificates have been issued and paid, original certificates will not be accepted as a basis for payment.

(2) Where the forms mentioned in this part provide for certification by a postmaster, notarization of the applicant's signature shall be substituted; however, on Form No. 315 the applicant's signature alone shall suffice. Where forms provide for notarization of the applicant's signature, such notarization shall be required.

(b) *By the depositor.* Form No. 315 shall be signed by a depositor exactly as his name appears on his System certificates. If the name of the original depositor has changed, he shall sign his changed name and submit a signed explanatory statement. A signature by mark (X) must be witnessed by two persons, whose signature and address must appear.

(c) *By the legal representative of a living depositor*—(1) *Powers of attorney.* When a depositor has appointed an attorney in fact, payment will be made to the depositor in care of that attorney upon submission of (i) a copy of the power of attorney executed in accord with the law of the residence of the depositor, and (ii) an affidavit from the attorney that his power has not been revoked as of the date of application by the depositor's death or other means. Form No. 315 and the System certificates shall be signed so as to indicate the attorney's capacity.

(2) *Incompetency.* When the depositor is incompetent, payment will be made to his guardian, committee, or other equivalent legal representative. Principal amounts of $50 or less will be paid, with accrued interest, to the person handling the affairs of an incompetent upon submission of either a certificate of the clerk of the appointing court, dated within 6 months of the date of the application for payment, showing that such appointment is in full force and effect, or a notarized statement showing (i) his relationship to the incompetent depositor; (ii) the name and address of the person having care and custody of the incompetent depositor; (iii) that any money received will be applied to the use and benefit of the incompetent and (iv) that there was no appointment of a guardian or committee. For payment of principal amounts of more than $50, the law of the residence of the depositor will determine whether the legal representative must be court-appointed. If court-appointment is required, the legal representative must submit a certificate of the clerk of the appointing court, dated within 6 months of the date of the application for payment, showing that his appointment is in full force and effect. Form No. 315 and the System certificates shall be signed so as to indicate clearly the capacity of the legal representative of the living depositor.

(d) *By the legal representative of a deceased depositor.* (1) When the depositor is decreased, payment will be made to the legal representative of his estate. The term legal representative shall include court-appointed or statutory administrators or executors, and successors in interest of the depositor, e.g., his legatees or heirs as determined by an appropriate court or by the law of the residence of the depositor. Principal amounts of $50 or less will be paid, with accrued interest, to a legal representative upon completion and submission of Form No. 1681. For payment of principal amounts of more than $50: (i) If administration of the deceased depositor's estate is closed, the legal representative shall submit a copy of the appropriate court's final order of distribution or other pertinent order, identifying the distributees and their addresses; (ii) if administration continues and the legal representative is court-appointed, he shall submit a certificate of the clerk of the appointing court, dated within 6 months of the date of the application for payment, showing that such appointment is in full force and effect; (iii) if the legal representative is not court-appointed he shall submit, along with a completed Form No. 1680, evidence sufficient to prove his interest and authority to apply for payment. If that evidence is a copy of the decedent's will, it shall show on its face or by attachments thereto that it has been offered for probate, and that the appropriate court has affixed its seal and attached its certification of authenticity that the will is in fact the decedent's last will and testament. Form Nos. 315, 1680, or 1681 and the System certificates shall be signed so as to indicate clearly the capacity of the legal representative of the deceased depositor.

(2) A release by a legal representative on Form No. 134 in favor of any other person will be recognized. A release by a court-appointed legal representative shall be approved by the appointing court. A release shall constitute a waiver of any distributive share due the releasor and of any reimbursement claim he has for expenses incurred in connection with the depositor's last illness or death.

(e) *By the creditors of a deceased depositor.* (1) Claims against the estate of a deceased depositor by preferred creditors will be accepted on Form No. 1672. Preferred creditors may include undertakers, cemeteries, doctors and hospitals; their status and rights are determined by the law of the state of residence of the deceased depositor. Claims by preferred creditors must be supported by (i) itemized bills, unreceipted if none of the claim has been paid, or receipted to the extent of the payment on the claim, and (ii) Form No. 1690 certifying the correctness of the claim and Form No. 1680 applying for any remaining balance of the deceased depositor's account, including interest due, completed by a legal representative mentioned in paragraph (d)(1).

(2) Claims against the estate of a deceased depositor for reimbursement by a person who has paid a preferred creditor of that depositor will be accepted on Form No. 1680 supported by itemized bills receipted in his favor to the extent of his payment thereon.

(3) Form Nos. 1672, 1680, and 1690 may be revised to state the kind of preferred claim presented.

(f) *Criminal sanctions applicable.* Fines, penalties and forfeitures are imposed for the making of any false or fraudulent claim for the payment of System deposits. 18 U.S.C. 1001, 1691, and 31 U.S.C. 231.

§ 257.3 [Reserved]

§ 257.4 Interest.

(a) *Termination dates.* Interest on System accounts ceased to accrue on the anniversary dates of System certificates, which occurred between April 27, 1966, and April 26, 1967.

(b) *Limitation to one account.* If a depositor opened more than one System account, contrary to 39 U.S.C. 5210, interest will be paid only on the one account containing the larger amount, but in no event for a principal amount exceeding $2,500. Action to reclaim interest paid on more than one account will be taken as necessary.

[F.R. Doc. 68-11963; Filed, Sept. 30, 1968; 8:50 a.m.]

[1] The forms mentioned in this part were prepared and used by the Post Office Department. They are hereafter available from the Investments Branch and from local post offices where System accounts were held until their supplies of forms are exhausted.

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

On July 31, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 10882) which set forth the text of regulations, proposed to be

adopted as Part 81, designating the National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia).

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on August 22, 1968. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, the National Capital Interstate Air Quality Control Region is hereby designated and Part 81, as set forth below, is hereby adopted effective on publication.

Subpart A—Meaning of Terms

Sec.
81.1 Definitions.

Subpart B—Designation of Air Quality Control Regions

81.11 Scope.
81.12 National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia).

AUTHORITY: The provisions of this Part 81 issued under sections 107(a) and 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a).

Subpart A—Meaning of Terms

§ 81.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them by the Act.

(b) "Act" means the Clean Air Act as amended (42 U.S.C. 1857, et seq.).

(c) "Department" means the Department of Health, Education, and Welfare.

(d) "Secretary" means the Secretary of Health, Education, and Welfare.

Subpart B—Designation of Air Quality Control Regions

§ 81.11 Scope.

Air quality control regions designated by the Secretary pursuant to section 107(a)(2) of the Act (42 U.S.C. 1857c-2(a)(2)) are listed in this subpart. Regions so designated are subject to revision, and additional regions may be designated, as the Secretary determines necessary to protect the public health and welfare.

§ 81.12 National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia).

The National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited);

DISTRICT OF COLUMBIA

In the State of Maryland: Montgomery County; Prince Georges County.

In the State of Virginia: Arlington County; Fairfax County; Loudoun County; Prince William County.

(As so delimited, the Virginia portion of the region will include the city of Alexandria, the city of Fairfax, and the city of Falls Church.)

Dated: September 30, 1968.

[SEAL] WILBUR J. COHEN,
Secretary.

[F.R. Doc. 68-11979; Filed, Sept. 30, 1968; 10:50 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

ARSENIC

Proposed Tolerances for Residues in Edible Tissues and Byproducts of Swine

The Commissioner of Food and Drugs, having considered available information (including data from controlled studies), and a request from the Livestock Slaughter Inspection Division, Consumer and Marketing Service, U.S. Department of Agriculture, concludes that § 121.1138 of the food additive regulations should be amended as proposed below to establish safe tolerances for residues of arsenic in edible tissues and byproducts of swine.

Various preparations that contain organic arsenical compounds are administered in the drinking water and feed of swine for improving growth and feed efficiency and for the prevention and control of swine enteritis. Among other things, safe conditions of use require that medications containing such arsenicals be withdrawn at least 5 days prior to the slaughter of treated animals. Under these circumstances, the tolerances proposed will not be exceeded in the edible tissues and byproducts of swine.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 121.1138 be revised to read as follows to establish the tolerances regarding swine:

§ 121.1138 Arsenic.

Tolerances for total residues of combined arsenic (calculated as As) in food are established as follows:

(a) In edible tissues and eggs of chickens and turkeys as follows:

(1) 0.5 part per million in muscle meat.

(2) 1.0 part per million in edible byproducts.

(3) 0.5 part per million in eggs.

(b) In edible tissues and byproducts of swine as follows:

(1) 2 parts per million in liver and kidney.

(2) 0.5 part per million in muscle meat and byproducts other than liver and kidney.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11884; Filed, Sept. 30, 1968; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 68-SO-76]

TRANSITION AREA

Proposed Alteration and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Allendale, S.C., transition area and designate the Vidalia, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Atlanta Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Allendale transition area described in § 71.181 (33 F.R. 2137) would be altered by deleting "* * * and on the SW by V-267, excluding Federal airways * * *" and substituting therefor "* * * and on the SW by V-154, excluding Federal airways * * *".

The Vidalia, Ga., transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Vidalia Municipal Airport; within 2 miles each side of the 070° bearing from the Vidalia, Ga. RBN (lat. 32°11'48.8" N., long. 82°22'16.7" W.), extending from the 6-mile radius area to 8 miles east of the RBN, and that airspace extending upward from 1,200 feet above the surface bounded on the north by V-154, on the southeast by V-157, on the southwest by V-267, and on the northwest by V-70.

The proposed transition area is required for the protection of IFR operations at Vidalia Municipal Airport in climb from 700 to 1,200 feet above the surface and in descent to 1,000 feet above the surface. A prescribed instrument approach procedure to this airport, utilizing the Vidalia NDB, is proposed in conjunction with the designation of this transition area. The designation of this transition area permits the revocation of a portion of the Allendale, S.C. 2,700-foot transition area.

These amendments are proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)).

Issued in East Point, Ga., on September 19, 1968.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 68-11861; Filed, Sept. 30, 1968; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-CE-56]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sioux City, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part

of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for Graham Field, North Sioux City, S. Dak., utilizing a privately owned radio beacon located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace for the protection of aircraft executing this new approach procedure by altering the transition area at Sioux City, Iowa. The new procedure will become effective concurrently with the alteration of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

SIOUX CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Sioux City Municipal Airport (latitude 42°24'10" N., longitude 96°23'05" W.); within 7 miles southwest and 8 miles northeast of the Sioux City ILS localizer southeast course, extending from the 10-mile radius area to 12 miles southeast of the OM; within 7 miles northeast and 8 miles southwest of the Sioux City ILS localizer northwest course, extending from the 10-mile radius area to 12 miles northwest of the Jackson, Nebr. RBN; within a 6-mile radius of Graham Field, North Sioux City, S. Dak. (latitude 42°32'25" N., longitude 96°29'05" W.); and within 5 miles west and 8 miles east of the 319° bearing from Graham Field extending from the airport to 12 miles north of the airport; that airspace extending from 1,200 feet above the surface within a 27-mile radius of Sioux City VORTAC; and the area bounded on the northeast by a line 5 miles northeast of and parallel to the Sioux City VORTAC 116° radial, on the southwest by a line 5 miles southwest of and parallel to the Sioux City VORTAC 140° radial, on the northwest by the 27-mile radius area and on the southeast by the arc of a 30-mile radius circle centered on the Sioux City ILS OM; and that airspace extending upward from 3500' MSL east, south and west of Sioux City bounded on the north by V–100, on the southeast by V–138, on the south by V–172 and on the west by longitude 98°00'00" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on September 17, 1968.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 68–11862; Filed, Sept. 30, 1968; 8:47 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 204, 217]

[Regs. D, Q]

RESERVES OF MEMBER BANKS; PAYMENT OF INTEREST ON DEPOSITS

Promissory Notes as Deposits

The Board of Governors is considering amending § 204.1(f) and section 217.1(f) to read as follows:

(f) *Deposits as including certain promissory notes.* For the purposes of this part, the term "deposits" shall be deemed to include the proceeds of any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral) that is issued by a member bank principally as a means of obtaining funds to be used in its banking business, except any such instrument (1) that is issued to and held by another bank, a foreign government, a monetary or financial authority of a foreign government when acting as such, or an international financial institution of which the United States is a member, (2) that evidences an indebtedness arising from a transfer of obligations that are direct obligations of the United States or any agency thereof or are fully guaranteed as to principal and interest by the United States or any agency thereof (other than a pro rata interest in a pool of such obligations) that the bank is obligated to repurchase, or (3) that has an original maturity of more than 2 years and states expressly that it is subordinated to the claims of depositors. This paragraph shall not, however, affect the status, for the purposes of this part, of any instrument issued before June 27, 1966, or any instrument that evidences an indebtedness arising from a transfer of assets under repurchase agreement issued before September 25, 1968.

The principal purpose of the proposal is to limit the scope of the repurchase agreement exemption from deposits for the purposes of rules governing member bank reserves (Regulation D) and payment of interest on deposits (Regulation Q). At present the exemption applies to any indebtedness (written or oral) arising from a transfer of any assets under repurchase agreement. Broadly speaking, under the proposed §§ 204.1(f) and 217.1(f), the exemption would apply only to repurchase agreements, evidenced in writing, with respect to obligations of the United States or its agencies as to which the bank transfers its entire interest. Limiting the scope of such exemption has become necessary in view of recent and contemplated use by certain banks of repurchase agreements to avoid reserve requirements and the rules governing payment of interest on deposits.

The proposal is also designed to expand the scope of the inter-bank exemption from deposits to include liabilities on promissory notes issued by a member bank to nonbank foreign monetary or financial authorities. Under section 217.3(a) the time deposits of such organizations are exempt from interest rate limitations. Making the inter-bank exemption completely parallel with the exemption from time deposit interest rate limitations insofar as institutions are concerned seems reasonable in view of their international nature, the possible benefits from the standpoint of the balance of payments, and the unlikelihood that the limited expansion of the inter-bank exemption that is involved could be used as a device by banks to avoid the purposes of Regulations D and Q.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 28, 1968.

Dated at Washington, D.C., this 25th day of September 1968.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 68–11847; Filed, Sept. 30, 1968; 8:46 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 247]

GUIDES FOR LADIES' HANDBAG INDUSTRY

Notice of Opportunity To Present Written Views, Suggestions or Objections

Proposed Guides for the Ladies' Handbag Industry are hereinafter set forth and are today made public by the Commission for consideration by industry members and other interested or affected parties pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41–58, and the provisions of Part 1, Subpart A, of the Commission's procedures and rules of practice, 16 CFR 1.5, 1.6.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties affected by or having an interest in the proposed Guides for the Ladies' Handbag Industry, to present to the Commission their views concerning the Guides, including such pertinent information, suggestions, or objections as they may desire to submit. For this purpose, copies of the proposed Guides, which are advisory in nature as to the applicability of legal requirements, may be obtained upon request to the Commission. Such data, views, information, and suggestions may be submitted by letter, memorandum, brief, or other written communication not later

than October 31, 1968, to the Chief, Division of Industry Guides, Bureau of Industry Guidance, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580.

Text of the proposed Guides follows:

NOTE: These Guides have not been approved by the Federal Trade Commission. They are a draft of proposed Guides which are made available to all interested or affected parties for their consideration and for submission of such views, suggestions, or objections as they may care to present, due consideration to which will be given by the Commission before proceeding to final action on the proposed Guides.

The Commission from time to time, publishes Guides to advise the business community of the Commission's views as to the requirements of laws which it administers. Guides are published in the belief that the businessman who is fully informed of the legal pitfalls he may encounter can conduct his affairs so as to avoid legal difficulties. It is the Commission's further belief that the more knowledge businessmen have respecting the laws it administers, the more likelihood there is that they will conduct their business in accordance therewith.

Trade practice rules for this industry were promulgated by the Commission in August, 1936. Since that time changes in industry technology and legislation have rendered certain portions of these rules obsolete. Thus these Guides, a revision of the trade practice rules, are reflective of existing technology and law, and as such, are designed to assist industry members and protect the public interest.

While the Guides are interpretive of laws administered by the Commission and thus are advisory in nature, proceedings to enforce the requirements of law as explained in the Guides may be brought under the Federal Trade Commission Act (15 U.S.C. sec. 41–58) and the Clayton Act, as amended by the Robinson-Patman Act (15 U.S.C. sec. 13). Briefly stated, the Federal Trade Commission Act makes it illegal for one to engage in "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce." The applicable provisions of the amended Clayton Act are referred to, where appropriate, in the Guides.

The content of these Guides is not to be construed as an expression of opinion concerning the relative merits of the various materials used in the manufacture of the products of this industry. Rather, the disclosure provisions of the Guides are intended to insure that the consumer is not deceived into thinking he is getting one material when actually he is furnished another.

Sec.

AUTHORITY: The provisions of this Part 247 issued under secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46: 49 Stat. 1526; 15 U.S.C. 13, as amended.

§ 247.0 Definitions.

For purposes of this part the following definitions apply:

(a) "Industry member" means any person, firm, corporation, or organization engaged in the manufacture, sale, or distribution of any industry products as defined below.

(b) "Industry product" means all kinds and types of ladies' handbags, shoulder bags, purses, pocketbooks, and similar articles, of any composition.

§ 247.1 Misrepresentation (general).

No representation should be made in advertising, labeling, or any other manner, which is likely to mislead or deceive any purchaser concerning the material composition, quality, finish, durability, price, origin, construction, ease of cleaning or any other feature, of an industry product.

[Guide 1]

§ 247.2 Misrepresentation and deception as to material composition.

(a) The material composition of an industry product should not be misrepresented in any manner. Included in, but not limited to, representations which should not be made concerning material composition are the following:

(1) Any representation that an industry product or part thereof is made of top grain leather, split leather, leather from the hide of a certain animal, vinyl, plastic, brass or other metal, or any other material, when such is not the fact.

(2) Any representation that an industry product is made wholly of a particular material when such is not the fact.

(3) Any representation that utilizes a trade name, coined name, trademark or other word or term which indicates that an industry product is made in whole or in part from the skin of an animal, or that material in the product is leather, split leather, vinyl, plastic, or other material, when such is not the fact. Also any stamping, tag, label, or other device, in the shape of an animal silhouette, used in connection with an industry product having the appearance of leather but which is not wholly or substantially made from the skin or hide of such an animal should not be used.

(4) Any representation that an industry product is made in whole or in part from the skin or hide of an animal which in fact is nonexistent.

(b) In some instances the failure to disclose certain pertinent facts concerning the material composition of an industry product may have the capacity and tendency to mislead or deceive and in effect result in a misrepresentation to purchasers. Generally such instances involve split leather which has the appearance of being top grain leather, or nonleather material which has the appearance of being leather, or leather which has been processed to simulate a different kind of leather. Included in, but not limited to, disclosures which should be made concerning material composition are the following:

(1) Disclosure should be made of the split leather content of an industry product or part thereof if the split leather is visible or if any representation is made as to composition thereof.

NOTE: Split leather should be considered as that leather which results from the splitting of hides or skins into two or more thicknesses, other than the grain or hair side.

(2) Disclosure should be made concerning the material composition of an industry product or part thereof which is made of a nonleather material having the appearance of leather. Such disclosure may either state that the material is not leather or describe the general nature of the material in a manner that would clearly show that it is not leather.

Examples:

"Nonleather"
"Imitation Leather"
"Simulated Leather"
"Vinyl"
"Vinyl Coated Fabric"
"Plastic"

NOTE: Nonleather materials which have the appearance of leather and which primarily contain ground, pulverized or shredded leather, are subject to subparagraph (2) of this paragraph (b). Such materials may be described as "Nonleather", "Imitation Leather" or "Simulated Leather", or as "Ground Leather", "Pulverized Leather" or "Shredded Leather", as the case may be.

When such nonleather material has been processed to simulate a particular kind of leather, such as alligator leather, any representation as may be made concerning the simulated appearance of the product should be immediately accompanied by the disclosure relating to the nonleather composition of the product.

Examples:

"Not Leather Simulated Alligator Grain"
"Plastic with Imitation Alligator Grain"

(3) Disclosure should be made of the kind of leather of which an industry product or part thereof is made when the leather has been embossed, dyed, or otherwise processed to simulate the appearance of a different kind of leather. Thus, a product made wholly of top grain cowhide which has been processed to simulate alligator may be described as follows:

Example:

"Top Grain Cowhide"

Any additional representation as may be made concerning the simulated appearance of the product should be immediately accompanied by the disclosure relating to the actual kind of leather in the product.

Example:

"Top Grain Cowhide Simulated Alligator Grain"

(4) Disclosure should be made that any material in an industry product is backed with another kind of material when the backing is not apparent upon casual inspection of the product, or when representations are made which in the absence of disclosure would be deceptive as to composition of the product.

Examples:

"Top Grain Cowhide Backed with Split Cowhide"
"Split Cowhide Backed with Simulated Leather"
"Vinyl Backed with Other Material"

If the backing material is visible and is split leather, nonleather material having the appearance of leather, or leather processed to simulate a different kind of leather, disclosure should be made consistent with subparagraphs (1), (2), and (3) of this paragraph (b).

(5) Disclosure as to the composition of an industry product, composed of more than one kind of leather or composed of leather and nonleather material having the appearance of leather, should clearly indicate the part to which the representation is applicable. For example, products composed of top grain cowhide except for the handles which have the appearance of leather may be described as:

Examples:
"Top Grain Cowhide with Handle of Simulated Leather"
"Top Grain Cowhide with Plastic Handle"
"Top Grain Cowhide with Split Leather Handle"

[Guide 2]

§ 247.3 Form of disclosure as to material composition.

All disclosures under § 247.2 should appear in the form of a stamping on the product, or on a tag, label, or card attached thereto, and be affixed with such degree of permanence as to remain on or attached to the product until it is received by the consumer purchaser. All such disclosures on industry products shall also appear in all advertising of the products irrespective of the media used whenever statements, representations or depictions appear in such advertising which in the absence of such disclosures serve to create a false impression that the products, or parts thereof, are of a certain kind of composition. The disclosures affixed to products and made in advertising should be of such conspicuousness and clarity as to be noted by purchasers and prospective purchasers casually inspecting the products or casually reading, or listening to, such advertising. A disclosure made in connection with any representation should be in close conjunction therewith.

[Guide 3]

§ 247.4 Misrepresentation as to aniline finish, graining, embossing and processing.

A representation should not be made that an industry product has been:

(a) Colored, finished, or dyed with aniline dye when such is not the fact; or

(b) Dyed, embossed, grained, processed, finished, or stitched in a certain manner when such is not the fact.

[Guide 4]

§ 247.5 Missue of terms such as "Scuffproof" and "Scratchproof".

A representation should not be made that an industry product is "Scuffproof", "Scratchproof", "Scuff Resistant", "Scratch Resistant", or otherwise not subject to wear unless the outer surface of the product is immune to scuff marks or scratches, and will in fact not be subject to wear as represented.

NOTE: Industry members are invited to comment on the inclusion of the terms "Scuff Resistant" and "Scratch Resistant" in this section. Comment in opposition thereto should state the reason for such view and should include appropriate counterproposals.

[Guide 5]

§ 247.6 Deceptive pricing.

Members of the industry should not represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

NOTE: The Commission's January 8, 1964, Guides Against Deceptive Pricing furnish additional guidance respecting price savings representations and are to be considered as supplementing this section. Copies are available upon request.

[Guide 6]

§ 247.7 Discriminatory prices, rebates, discounts, etc.

NOTE: § 247.7 is interpretive of sections 2 (a) and (b) of the amended Clayton Act.

(a) Industry members, engaged in commerce, in the course of such commerce, should not grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,* (1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by the U.S. Government, State and local government entities, schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use;

(2) That nothing contained in this section shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantites in which industry products are sold or delivered to different purchasers;

NOTE: Cost justification under the above proviso (2) depends upon net savings in cost based on all facts relevant to the transactions under the terms of such proviso. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this section shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor. However, this is a very technical defense subject to important limitations.

NOTE: Section 2(b) of the Clayton Act, as amended, reads as follows:

"Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) The following are examples of price differential practices to be considered as subject to the provisions of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by the U.S. Government, State and local government entities, schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use, and when—

(1) The commerce requirements specified in this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injuring, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and provided that

(3) The price differential was not justified by cost savings (see subparagraph (a)(2) of this section); or

(4) The price differential was not made in response to changing conditions

affecting the market for or the marketability of the goods concerned (see paragraph (a)(4) of this section); or

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a)(5) of this section):

Example 1. At the end of a given period an industry member grants a discount to a customer equivalent to a fixed percentage of the total of the customer's purchases during such period and fails to grant a discount of the same percentage to other customers on their purchases during such period.

Example 2. An industry member sells handbags to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether or not such discrimination is accomplished by misrepresentation as to the grade and quality of the products sold.

Example 3. An industry member sells handbags directly to a retailer at a lower price than he charges distributors whose retail customers compete with the favored retailer.

Example 4. An industry member pays freight on shipments to one customer and does not pay freight on shipments to another customer, or pays freight on shipments to a distributor's customer and does not pay such freight on shipments to other distributors' customers thereby effecting a difference in price between customers.

Example 5. Terms of 3/10th prox. are granted by an industry member to some customers on handbags purchased by them from the industry member. Another customer or customers are, nevertheless, allowed to take an additional discount when making payment to the industry member within the time prescribed or granted an extended period of time within which to avail themselves of the originally offered discount.

Example 6. An industry member invoices handbags to all his customers at the same price but supplies additional quantities of such goods at no extra charge to one or more, but not to all, such customers; or supplies other goods or premiums to one or more, but not to all, such customers for which he makes no extra charge and which effects an actual price difference in favor of certain of his customers.

NOTE: *Functional discounts.* Neither this section, nor section 2(a) of the Clayton Act, as amended, of which this section is interpretive, expressly permits or prohibits the granting of functional discounts. The propriety of such discounts is contingent, principally, on whether they may substantially lessen competition or tend to create a monopoly. All price differentials, whether "functional" or otherwise, must meet the same tests. Ordinarily, however, a seller may grant a lower price to wholesalers than to retailers to the extent that such wholesalers resell to retailers, without such effects as may substantially lessen competition or tend to create a monopoly. But if such wholesalers also sell at retail, in competition with other of the seller's retail customers, they may not properly be granted a price lower than the prices granted to competing retailers on that portion of the goods they sell at retail.

[Guide 7]

§ 247.8 Advertising or promotional allowances, or services or facilities.

NOTE: § 247.8 is interpretive of sections 2(d) and (e) of the amended Clayton Act.

(a) *Advertising or promotional allowances.* No member of the industry engaged in commerce should pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any industry products manufactured, sold or offered for sale by such member, unless such payment or consideration is offered to and made available on proportionally equal terms to all other customers competing in the distribution of such products.

NOTE 1: "Competing Customers" means, for purposes of this section, all businesses that compete in the resale of the supplier's handbags at the same functional level of distribution regardless of whether they purchase direct from the supplier or through some intermediary, e.g., direct buying retailers and retailers that purchase through wholesalers and compete with the direct buying retailers.

NOTE 2: Industry members giving advertising allowances to competing customers should exercise precaution and diligence in seeing that all of such allowances are used in accordance with the terms of their offers.

NOTE 3: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, and it appears after reasonable inquiry that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, such fact should not be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(b) *Services or facilities.* No member of the industry engaged in commerce should discriminate in favor of one purchaser against another purchaser or purchasers of industry products bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such products so purchased upon terms not accorded to all competing customers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note following paragraph (a)(5) of § 247.7 is also applicable to provisions of both paragraphs (a) and (b) of this section.

(c) *Examples.* The following are examples of discriminations in payments for or in the furnishing of advertising or promotional allowances or services or facilities to be considered as subject to the provisions of this section, when involving goods of like grade and quality, when the commerce requirements specified by this section are present, and when a suitable equivalent alternative payment or allowance, service or facility is not accorded on proportionally equal terms to those customers to whom the allowance, service or facility set forth in these examples is not available in a practical business sense.

Example 1. An industry member grants an allowance for advertising to a customer based on a fixed percentage of that customer's purchases and fails to make known and available to other customers who are competing with the former an allowance of the same percentage of their purchases.

Example 2. An industry member furnishes free merchandise to a customer with the proviso that it be used for advertising or that the proceeds of its sale be used for advertising purposes. Such free merchandise is not offered and made available on proportionally equal terms to all competing customers.

Example 3. An industry member provides cooperative advertising allowances in the form of credit memoranda to particular customers on a negotiated, specific advertisement basis without offering such advertising allowances to and making them available on proportionally equal terms to all competing customers.

Example 4. An industry member furnishes promotional services to a retailer customer in connection with the resale of the goods purchased and fails to accord such services on proportionally equal terms to other retail customers who are competing with the former.

Example 5. An industry member provides racks, bins, displays, and other similar services and facilities to certain of its customers but does not accord such services and facilities on proportionally equal terms to all competing customers.

Example 6. An industry member sponsors a radio or television program on which advertising is provided for certain of its customers. Such service is not accorded to all competing customers on proportionally equal terms.

Example 7. An industry member accords to one or more customers the privilege of returning for credit, refund or exchange any or all of the goods purchased by them and fails to accord the same privilege to another or other competing customers on proportionally equal terms.

(d) *Proportional equality of treatment of competing customers.* (The following is presented for the purpose of clarifying requirements with respect to the supplying of marketing services, facilities or allowances by industry members to their customers, but it is not intended to imply that other methods which assure proportional equality of treatment of competing customers may not also be used.) An industry member may simultaneously offer to each of his customers competing in the resale of his products the same kind of promotional service, facility or the payment of a promotional allowance based upon a uniform percentage of the sales of the industry member's products by each customer during a specified period of time; *Provided, however,*

(1) The payments or services offered are available on proportionally equal bases to all competing customers,

(2) The seller takes action to assure that all competing customers are informed of the offer in ample time to take full advantage of it,

(3) If the basic offer is not functionally available to (i.e., suitable for and usable by) some competing customers, alternative suitable means of participation are provided,

(4) The seller and customer have a clear understanding about the exact terms of the offer and the conditions upon which payments will be made for services and facilities furnished, and

(5) The seller takes reasonable precautions to see that the services are actually furnished and also that he is not overpaying for them.

NOTE 1: *Proportionally equal terms.* The requirement that the offer of payments or

services should be made available on proportionally equal terms means that the payments or services should be proportionalized on some basis that is fair to all customers who compete in the resale of the seller's products. No single way to proportionalize is prescribed by law. Any method that treats competing customers on proportionally equal terms may be used. Generally, this can best be done by basing the payments made or the services furnished on the dollar volume or on the quantity of goods purchased during a specified period. Other methods which are fair to all competing customers are also acceptable.

NOTE 2: The Commission's amended Guides for Advertising Allowances and Other Merchandising Payments and Services; Compliance with sections 2(d) and 2(e) of the Clayton Act, as amended by the Robinson-Patman Act, are to be considered as supplementing this section. Copies are available upon request.

[Guide 8]

§ 247.9 Inducing or receiving illegal discrimination in price, advertising or promotional allowances, or services or facilities.

NOTE: § 247.9 is interpretive of section 2(f) of the amended Clayton Act and of section 5 of the Federal Trade Commission Act, as amended.

(a) Industry members engaged in commerce, in the course of such commerce, should not knowingly induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, as described in §§ 247.7 and 247.8.

(b) The following are examples of inducing or receiving discriminations in price, advertising, or promotional allowances, or services or facilities, to be considered as subject to this section when the requisites of an improper discrimination on the part of the seller as set forth in §§ 247.7 and 247.8 are present and the party receiving the discriminations knows or has reason to know that the discriminations are illegal.

Example 1. An industry member purchases handbags purportedly for resale to retailers, and is charged a lower price than the seller charges other customers for handbags which they resell at retail; but the member then transfers such handbags to another part of its business where they are resold at retail, thereby receiving a discrimination in price which is covered in § 247.7.

Example 2. An industry member induces suppliers to contribute sums of money to defray some or all of the costs of advertising sponsored by such member and designed to promote the sale of such suppliers' handbags in its place of business, when the industry member knows or has reason to believe that allowances for such purpose are not made available on proportionally equal terms by the same suppliers to other customers competing with the favored member, thereby receiving a discrimination in promotional allowances subject to the provisions of § 247.8.

[Guide 9]

Issued: September 30, 1968.

By direction of the Commission.

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

[F.R. Doc. 68-11877; Filed, Sept. 30, 1968; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 249]

[Release Nos. 33-4927, 34-8416]

REGISTRATION FORMS

Reporting of Product and Service Lines; Extension of Time for Submitting Comments

On September 4, 1968, the Securities and Exchange Commission invited the views and comments of interested persons on certain proposed amendments to its Forms S-1 (17 CFR 239.11), S-7 (17 CFR 239.26), and 10 (17 CFR 249.210) [see 33 F.R. 13035 on Sept. 14, 1968]. The proposed amendments would supply information on the basis of which existing security holders and new investors may be able to determine the approximate contribution which the various lines of business made to a company's overall profitability, or lack of it. Comments on the proposed amendments were requested by October 4, 1968. Pursuant to the requests of interested persons the Commission has extended the time for submitting such comments to November 4, 1968.

By the Commission, September 23, 1968.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11866; Filed, Sept. 30, 1968; 8:47 a.m.]

[17 CFR Part 240]

[Release No. 34-8413]

TRANSFER FACILITIES OF ISSUERS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 10b-14 (17 CFR 240.10b-14) under the Securities Exchange Act of 1934 ("the Act"). Proposed Rule 10b-14 (17 CFR 240.10b-14) would impose upon issuers whose securities are publicly traded the duty to maintain facilities reasonably designed to effectuate the prompt issuance, registration, and registration of transfers of securities, and delivery of certificates. The rule would be adopted under the provisions of the Securities Exchange Act of 1934, and particularly sections 10(b) and 23(a) thereof.

Section 10(b) of the Act makes it unlawful for any person, including an issuer, to engage in activities which the Commission defines as manipulative or deceptive, if they occur in connection with the purchase or sale of a security. Section 23(a) of the Act gives the Commission the power to make rules and regulations necessary for the execution of its functions under the Act. When an issuer issues securities purporting to be freely transferable it impliedly represents that they are and will continue to be freely transferable, and this representation is deceptive if, because of the absence or inadequacy of the transfer facilities provided by the issuer, security holders are not in a position to obtain prompt transfers. In addition, the Commission has found that in some cases the withholding of certificates can and may be used as a manipulative device.

In expressing its concern over the acute delivery backlogs confronting the securities industry, the Commission has noted that the problem is not confined to broker-dealers alone, but involves other segments of the securities industry, including transfer agents and others who participate in the initiation, conduct or consummation of transactions in the securities markets (see Securities Exchange Act Release No. 8341, June 20, 1968); and one of the reasons broker-dealers have experienced delay in consummating securities transactions is that some issuers with publicly traded securities have not been maintaining adequate transfer facilities. The inability of purchasers of securities to obtain prompt delivery of certificates not only interferes with the maintenance of fair and orderly markets, it also impedes the Commission in fulfilling its regulatory functions in the maintenance of markets which are free of fraud and manipulation.

Accordingly, Rule 10b-14 (17 CFR 240.10b-14) would make it unlawful for any issuer which has any publicly traded securities to fail to provide personnel and facilities which are reasonably designed to effectuate prompt issuance, transfer and registration of transfers of such securities, and delivery of certificates, in connection with the purchase or sale of any such security by any person.

Commission Action. Pursuant to the Securities Exchange Act of 1934, particularly Sections 10(b) and 23(a) thereof, the Commission proposes to add to Part 240 of Chapter II of Title 17 of the Code of Federal Regulations the following Rule 10b-14 (17 CFR 240.10b-14):

§ 240.10b-14 Transfer facilities provided by issuers.

It shall be unlawful for an issuer, any class of whose securities are publicly traded by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, to fail to provide personnel and facilities which are reasonably designed to effectuate prompt issuance, transfer, and registration of transfers of such securities, and delivery of certificates, in connection with the purchase or sale of any such securities by any person.

(Secs. 10(b) and 23(a), 48 Stat. 891, 901, as amended, sec. 8, 49 Stat. 1379; 15 U.S.C. 78j and 78w)

All interested persons may submit their views and comments on the above proposal in writing to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 25, 1968. All such communications will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

SEPTEMBER 25, 1968.

[F.R. Doc. 68-11865; Filed, Sept. 30, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 68-242]

CUSTOMS AUTOMATED ACCOUNTING SYSTEM

Notice of Effective Date of Implementing Regulations; Regions VIII, IX

In accordance with Treasury Decision 67-155, dated June 28, 1967, published in the FEDERAL REGISTER dated July 11, 1967 (32 F.R. 10200), notice is hereby given that November 1, 1968, is the effective date of the regulations implementing the automated accounting system in the following regions:

Region No.	*Headquarters*
VIII	San Francisco, Calif.
IX	Chicago, Ill.

Importers or their agents filing dutiable formal entries on and after November 1, 1968, in either of these regions must have on file or file with the entry a customs Form 5106, Notification of or Application for Importer's Number, required by § 24.5, Customs Regulations (19 CFR 24.5), and must submit with each dutiable formal entry a customs Form 5101, Entry Record, which is required by section 8.8(c) of the Customs Regulations (19 CFR 8.8(c)).

Attention is called to the provision of § 8.8(c) of the Customs Regulations which requires the agent's importer number to also be reported on the customs Form 5101 if an importer of record desires to have refunds, bills, or notices of liquidation pertaining to his entry mailed in care of his agent. In such a case, the importer of record shall file or shall have filed previously a customs Form 4811, Special Address Notification (July 1966), authorizing the mailing of refunds, bills, or notices of liquidation to his agent. Further, attention is called to the fact that although courtesy notices of liquidation will be issued under the automated procedure, the posting of the bulletin notice of liquidation provided for in §16.2 of the Customs Regulations (19 CFR 16.2) will continue to constitute full compliance with the requirements for giving notice of liquidation under section 505, Tariff Act of 1930 (19 U.S.C. 1505).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 20, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-11903; Filed, Sept. 30, 1968; 8:50 a.m.]

POST OFFICE DEPARTMENT

FIREARMS TO AND FROM MILITARY POST OFFICES

Prohibited

Effective at once, the acceptance of shipments of firearms of all types to or from all military post offices in the military postal system (APO's and FPO's) are prohibited.

Part 127 of Title 39, Code of Federal Regulations, will be appropriately amended.

(5 U.S.C. 301; 18 U.S.C. 1715, 1716; 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

[F.R. Doc. 68-11976; Filed, Sept. 30, 1968; 9:42 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

CHACO CANYON NATIONAL MONUMENT, N. MEX.

Nonsuitability as Wilderness; Hearing

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), that a public hearing will be held beginning at 9 a.m. on December 3, 1968, in the District Courtroom, San Juan County Courthouse, Aztec, N. Mex., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal that wilderness not be established within Chaco Canyon National Monument. This national monument is located in San Juan and McKinley Counties, N. Mex.

A packet containing a report and a map of the roadless area studied and providing additional information about the monument may be obtained from the Superintendent, Chaco Canyon National Monument, Post Office Box 156, Bloomfield, N. Mex. 87413, or the Regional Director, Southwest Regional Office, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, N. Mex. 87501.

The master plan for the monument may be inspected at the above locations and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer in care of the Superintendent, by December 2, 1968, of their desire to appear. Those not wishing to appear in person may submit a written statement to the Hearing Officer, in care of the Superintendent, for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to a determination that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the report on the roadless area studied by a representative of the National Park Service the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the counties in which the monument is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

HARTHON L. BILL,
Acting Director, National Park Service.

SEPTEMBER 24, 1968.

[F.R. Doc. 68-11852; Filed, Sept. 30, 1968; 8:45 a.m.]

[Order 1]

ADMINISTRATIVE OFFICER ET AL.; FORT McHENRY NATIONAL MONUMENT

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services

SECTION 1. *Administrative Officer.* The Administrative Officer of Fort McHenry National Monument may issue purchase orders not in excess of $1,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriations. This authority may be exercised by the Administrative Officer

in behalf of any unit under the administration of Fort McHenry National Monument.

(National Park Service Order 34 (31 F.R. 4255), as amended; 39 Stat. 535, 16 U.S.C. Sec. 2; Northeast Region Order No. 5 (31 F.R. 8135))

Dated: August 30, 1968.

WALTER T. BRUCE,
Superintendent,
Fort McHenry National Monument.

[F.R. Doc. 68-11857; Filed, Sept. 30, 1968; 8:46 a.m.]

[Order 6]

ASSISTANT SUPERINTENDENT ET AL.; LAKE MEAD NATIONAL RECREATION AREA

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, or Services

SECTION 1. Assistant Superintendent. The Assistant Superintendent may execute, approve and administer contracts not in excess of $200,000 for supplies, equipment, services, and construction, in conformity with applicable regulations and statutory authority and subject to availability of appropriations. Contracts for construction will be entered into only with the advice and consent of the appropriate design and construction office chief.

SEC. 2. Administrative Officer. The Administrative Officer may execute, approve and administer contracts not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

SEC. 3. Procurement and Property Management Officer. The Procurement and Property Management Officer may execute, approve and administer contracts not in excess of $5,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

SEC. 4. Procurement and Property Management Assistant. The Procurement and Property Management Assistant may execute, and approve and administer contracts not in excess of $500 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriations.

SEC. 5. Supervisory Park Rangers. The Supervisory Park Rangers, Temple Bar, Mohave, and Overton Districts, may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 6. Maintenancemen. The Maintenancemen, Temple Bar, Mohave, and Overton Districts, may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 7. Revocations. This order supersedes Order No. 5, as published in 31 F.R. 4741, dated March 19, 1966, and amendment No. 1 thereto, as published in 31 F.R. 10928, dated August 17, 1966.

(National Park Service Order No. 34 (31 F.R. 4255); 39 Stat. 535, 16 U.S.C. sec. 2; Southwest Region Order No. 4 (31 F.R. 8134))

Dated: August 29, 1968.

C. E. JOHNSON,
Acting Superintendent, Lake Mead National Recreation Area.

[F.R. Doc. 68-11858; Filed, Sept. 30, 1968; 8:46 a.m.]

DEPARTMENT OF COMMERCE

National Bureau of Standards

WWV

Notice of Broadcasting During a Scheduled Quiet Period

In accordance with National Bureau of Standards policy of giving notice regarding changes in broadcast schedules of its radio stations, notice is hereby given that the regularly scheduled quiet period from 11h 45m 15s to 11h 49m 15s on October 19, 1968, will not be observed in HF broadcasts from WWV, Fort Collins, Colo., at any of its frequencies. The purpose of broadcasting during this particular silent period is to provide timing signals for an expedition of astronomers coordinated by the U.S. Naval Observatory to observe and make timings of grazing occultations to determine the relative positions of Jupiter, its four major satellites, and the moon.

The hourly silent periods will be resumed thereafter as regularly scheduled.

I. C. SCHOONOVER,
Acting Director.

SEPTEMBER 26, 1968.

[F.R. Doc. 68-11951; Filed, Sept. 30, 1968; 8.50 a.m.]

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving monthly notices regarding changes in phases of seconds pulses, notice is hereby given that there will be an adjustment on November 1, 1968, in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo. At 0000 hours Greenwich Mean Time (GMT) the clock at the station will be retarded 200 ms. The carrier frequency of WWVB is 60 kHz and is broadcast without offset. These emissions are made following the stepped atomic time (SAT) system as coordinated by the Bureau International de l'Heure (BIH).

Notice is also hereby given that there will be no adjustment in the phases of time pulses emitted from radio stations WWV, For Collins, Colo., and WWVH, Maui, Hawaii. The time pulses on these stations will continue to occur at intervals which are longer than one second by 300 parts in 10^{10} due to the offset maintained in the carrier frequencies of stations which follow the coordinated universal time (UTC) system, also coordinated by the BIH.

Phase adjustments, when needed, ensure that the emitted pulses from all stations will remain within about 100 ms of the Universal Time, UT2 scale, a non-uniform scale associated with the rotation of the earth. NBS obtains daily UT2 information from forecasts of extrapolated UT2 clock readings provided weekly by the U.S. Naval Observatory in accordance with the close cooperation maintained between the two agencies.

I. C. SCHOONOVER,
Acting Director.

SEPTEMBER 26, 1968.

[F.R. Doc. 68-11952; Filed, Sept. 30, 1968; 8.50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-302]

FLORIDA POWER CORP.

Notice of Issuance of Provisional Construction Permit

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated September 24, 1968, the Director of the Division of Reactor Licensing has issued Provisional Construction Permit No. CPPR-51 to the Florida Power Corp. for the construction of a pressurized water nuclear reactor, designated as Crystal River Unit 3 Nuclear Generating Plant, on the applicant's site on the Gulf of Mexico, about 7½ miles northwest of the town of Crystal River, Citrus County, Fla. The reactor is designed for initial operation at approximately 2,452 megawatts (thermal).

A copy of the initial decision is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 25th day of September 1968.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 68-11840; Filed, Sept. 30, 1968; 8:45 a.m.]

[Docket Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

Notice of Issuance of Provisional Construction Permits

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated September 24, 1968, the Director of the

Division of Reactor Licensing has issued Provisional Construction Permits Nos. CPPR–52 and CPPR–53 to Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co. for the construction of two pressurized water nuclear reactors at the applicants' site in Lower Alloways Creek Township, Salem County, N.J. The reactors, known as the Salem Nuclear Generating Station Units 1 and 2, are each designed for initial operation at approximately 3,250 thermal megawatts with a net electrical output of approximately 1,050 megawatts.

A copy of the initial decision is on file in the Commission's Public Document Room, 1717 H Street, Washington, D.C.

Dated at Bethesda, Md., this 25th day of September 1968.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 68–11841; Filed, Sept. 30, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Notice 2]

RAW SUGAR

Importation for Refining and Storage

Pursuant to provisions of paragraph (d) of § 817.8 (32 F.R. 14363) and on the basis of information before me, I do hereby determine and give public notice that during October, November, and December 1968, the importation of raw sugar into the United States for refining and storage at locations north of Hatteras without charge to a quota at the time of importation will not interfere with the effective administration of the Sugar Act of 1948 as amended (60 Stat. 922, as amended).

Refiners have large inventories of sugar and remaining supplies of raw sugar within 1968 quotas appear adequate. But recently, refiners have found additional offerings of raw sugar available only at rising prices. Refiners south of Hatteras and in the Gulf have large quantities of mainland produced raw sugar within next year's quota available for refining under bond to cover a portion of their inventory needs. This action will tend to place north of Hatteras refiners in a similar situation.

Accordingly, notice is hereby given that during the period October 1, 1968, through the close of business December 31, 1968, raw sugar may be authorized for release for importation by or delivery to a refiner for the sole purpose of refining and storage at north of Hatteras locations without effect on a quota at the time of importation. The total quantity of sugar which may be imported under bond shall be limited to 75,000 short tons, raw value. Any such sugar shall be charged to 1969 quotas when released by the Secretary, subject to any quarterly quota limitations which may be imposed under section 202(g) of the Sugar Act of 1948, as amended.

Authorizations for the release of sugar pursuant to this notice may be issued only to cover raw sugar to be imported by or delivered to a refiner who is the principal on a bond accepted pursuant to § 817.9 under which the principal is obligated to hold at the refinery at which such sugar is received for storage the raw value equivalent of such sugar until release of such sugar from inventory is authorized by the Secretary within a quota or a quarterly limitation of a quota for the calendar year 1969, pursuant to section 202 of the Sugar Act.

For the purpose of this notice, sugar held in inventory under the control of a refiner in warehouse facilities within 2 miles of the refinery where such sugar was received for storage shall be deemed to be held at that refinery.

Signed at Washington, D.C., this 27th day of September 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68–11978; Filed, Sept. 30, 1968; 10:08 a.m.]

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the list (33 F.R. 12858) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (34 Stat. 1260, as amended by Public Law 90–201) and which use humane methods of slaughter and incidental handling of livestock is hereby amended as indicated in the following table listing species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

Name of Establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Sandusky Dressed Beef Co.	63	(*)						
John Morrell & Co.	196					(*)		
Carteret Abattoir, Inc.	639	(*)	(*)	(*)				
American Beef Packers, Inc.	866	(*)						
Odom Sausage Co. of Kentucky, Inc.	2094					(*)		
Amana Society Meat Department.	2357	(*)						
Partin Sausage Co.	2385					(*)		
Marshall Packing Co., Inc.	2386	(*)						
Clinton Packing Co.	2387					(*)		
Double A Meat Packing Co.	5162	(*)	(*)					
Schenk Packing Co.	6056	(*)	(*)	(*)		(*)		
Arnopole Meat Co.	6084	(*)	(*)	(*)	(*)	(*)		
Odom Sausage Co., Inc.	6544					(*)		
Suffolk Packing Co.	6546	(*)	(*)	(*)				
Ledford's Livestock Farm Slaughter Plant.	6591–A	(*)	(*)	(*)		(*)		
New establishment reported: 15								
Swift & Co.	3E				(*)			
Roegelein Provision Co.	32A		(*)					
City Packing Co.	80		(*)					
Swift & Co.	166–A				(*)			
Walti Schilling & Co., Inc.	235			(*)				
Kaufman Meat Packers, Inc.	310		(*)					
Melton Provision Co.	311		(*)					
Estes Packing Co.	319		(*)					
Oakridge Smokehouse	401		(*)	(*)	(*)			
Lancaster Packing Co.	462		(*)	(*)				
Texas Meat Packers, Inc.	565		(*)					
Nagle Packing Co.	653	(*)		(*)				
The Sucher Packing Co.	689		(*)	(*)				
Siouxland Dressed Beef Co.	857–F			(*)				
Walden Packing Co., Inc.	886		(*)					
Alice Meat Co.	2230	(*)	(*)			(*)		
L. A. Frey & Sons, Inc.	2266–A		(*)					
Wright Packing Co.	2269		(*)					
Theis Packing Co., Inc.	2367					(*)		
Mount Vernon Meat Co., Inc.	6039					(*)		
Portsmouth Dressed Beef, Inc.	6538				(*)			
Species added: 28.								

Done at Washington, D.C., this 25th day of September 1968.

R. K. SOMERS,
Deputy Administrator,
Consumer Protection.

[F.R. Doc. 68–11871; Filed, Sept. 30, 1968; 8:47 a.m.]

Office of the Secretary

DELAWARE, MARYLAND, AND NORTH DAKOTA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Delaware, Maryland, and North Dakota, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

DELAWARE

Kent. Sussex.

MARYLAND

Caroline. Talbot.

NORTH DAKOTA

Towner.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 25th day of September 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-11873; Filed, Sept. 30, 1968; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DRUGS FOR HUMAN USE—DRUG EFFICACY STUDY IMPLEMENTATION

Announcement Regarding Certain Diagnostic Hematologic Radioactive Agents

The Food and Drug Administration has reviewed and evaluated reports from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following radiopharmaceuticals employed as hematologic radioactive agents:

1. Racobalamin-60; capsule (oral), sterile solution (injectable), anemia diagnostic kit (capsules); containing about 0.5 microcurie of cyanocobalamin cobalt 60 per capsule having specific activity of about 750 microcuries per milligram of cyanocobalamin, and containing about 1.0 microcurie of cyanocobalamin cobalt 60 per milliliter of sterile solution having specific activity of about 1.0 microcurie per microgram of cyanocobalamin; marketed by Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 11-510).

2. Rachromate-51; injection (sterile solution); sodium chromate Cr-51, less than 250 microcuries per milliliter; marketed by Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 9-919).

The Food and Drug Administration concurs in the conclusions of the Academy that Cyanocobalamin Co 60 is effective for the diagnosis of addisonian (pernicious) anemia. Also, it concurs with the Academy's conclusions that sodium chromate Cr 51 is effective for determining red blood cell volume or mass, studying red blood cell survival time, and evaluating blood loss.

New-drug applications are required for any persons marketing such drugs without approval.

The holder of the previously approved new-drug applications for these articles is herewith exempted from the annual reporting requirements of § 130.35(e) of the new-drug regulations (21 CFR 130.35 (e)).

Any person marketing such drugs for the above indications without approved new-drug applications may continue to market the articles provided the following conditions are met within the specified time following the date of publication of this announcement in the FEDERAL REGISTER.

A. Within 60 days, the labeling of such preparation(s) shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act is in accord with the labeling conditions described in this announcement.

B. Within 120 days, the manufacturer, packer, or distributor of such drug(s) submits a new-drug application for the preparation(s) to the Food and Drug Administration.

C. The applicant submits additional information that may be required for approval of the application as specified in a written communication from the Food and Drug Administration.

D. Within 365 days, the applicant holds an approved new-drug application.

The holders of previously approved new-drug applications for these articles are requested to submit within 60 days following the date of publication of this announcement in the FEDERAL REGISTER new-drug application supplements to provide for revised labeling in accord with the labeling conditions indicated below.

The drugs should be labeled to comply with all requirements of the act and regulations thereunder and those parts of their labeling described below should be substantially as follows (as it pertains to test methods and dosage recommendations, the labeling should present complete information on the designated subjects of test methods, dosages, interpretation, dosimetry, and decay tables):

CYANOCOBALAMIN CO 60

ACTIONS

Cyanocobalamin Co 60 is offered as a diagnostic agent for determining the amount of B_{12} which is absorbed in the intestine. The half-life is 5.27 years.

Following oral administration of cyanocobalamin Co 60, the urine, feces, liver, or blood may be counted. Following parenteral administration the liver may be counted as a standard for comparison with the liver count following oral administration.

INDICATIONS

Cyanocobalamin Cobalt 60 is offered for the diagnosis of addisonian (pernicious) anemia and as a diagnostic adjunct in other defects of intestinal absorption.

WARNINGS

Use in pregnancy. This radiopharmaceutical agent should not be administered during pregnancy and lactation unless the information to be gained outweighs the hazards.

This radiopharmaceutical should not be administered to persons less than 18 years of age unless the information to be gained outweighs the hazards.

Radiopharmaceuticals, produced by nuclear reactor or cyclotron, should be used only by physicians who are qualified by specific training in the safe use and safe handling of radioisotopes and whose experience and training have been approved by an individual agency or institution already licensed in the use of radioisotopes.

Recent reports raised the possibility of impaired intestinal absorption of vitamin B_{12} caused by para-aminosalicyclic acid (PAS) therapy in tuberculous patients. This may have led to the development of megaloblastic anemia. Normal absorption is restored by withdrawal of PAS.

PRECAUTIONS

As in the use of any other radioactive material, care should be taken to insure minimum radiation exposure to the patient as well as to all personnel, including technicians and nurses, by using the smallest dose of radioactivity consistent with safety and with validity of data.

The flushing dose of parenteral cyanocobalamin used in the urinary (Schilling) excretion test will decrease the retention of cyanocobalamin Co 60 by the liver. Although a similar flushing dose is not required for the fecal exclusion test, administration of such a dose after completion of the test will decrease the retention of radioactivity.

Especially in younger patients, the need should be carefully evaluated before a test (or test sequence) is repeated in the same patient.

DIAGNOSTIC TESTS INCLUDING DOSAGE RECOMMENDATIONS

Information in this part should describe the methods of performing the test, dosages employed, and interpretation. Tests commonly used are the urinary excretion test, fecal excretion test, liver uptake test, and plasma concentration test.

Dosimetry information must be available in the labeling.

Tables of decay schedule must also be included.

SODIUM CHROMATE CR 51

ACTIONS

Chromium is present in the hexavalent (plus 6) state, in which form it readily penetrates the red blood cell, attaches to the hemaglobin, and is reduced to the trivalent (plus 3) state. This state is maintained until the red blood cell is sequestered by the spleen, at which time the chromium is released to the plasma and is readily excreted mainly in the urine. In the trivalent state, chromium 51 is not reutilized for tagging of additional red blood cells. Since the product has a high specific activity, adequate red blood cell tagging is secured in minimum time without demonstrable effect on cell life.

The physical half-life of chromium is 27.8 days, and decay occurs mainly by "k-capture"; however, 9 percent of total emissions is in the form of a 0.32 Mev. gamma ray, making measurement in a properly shielded cell counter quite feasible.

INDICATIONS

The determination of red blood cell volume or mass.

The study of red blood cell survival time. Evaluating blood loss.

WARNINGS

Use in pregnancy. This radiopharmaceutical agent should not be administered during pregnancy and lactation unless the information to be gained outweighs the hazards.

This radiopharmaceutical should not be administered to persons less than 18 years of age unless the information to be gained outweighs the hazards.

Radiopharmaceuticals, produced by nuclear reactor or cyclotron, should be used only by physicians who are qualified by specific training in the use and safe handling of radioisotopes and whose experience and training have been approved by an individual agency or institution already licensed in the use of radioisotopes.

DOSAGE

In order to obviate or minimize the possibility of contamination and of increased fragility of the tagged red blood cells, sterile techniques should be employed throughout the collection, tagging, rinsing, suspending, and injection of red blood cells. Also, the number of washes and transfers should be kept to a minimum, and only sterile, pyrogen-free isotonic diluent should be employed throughout the tagging procedure.

Specific activity should be not less than 10 millicuries per milligram (10 microcuries per microgram) of sodium chromate at the time of use.

The usual dosages for the above indications are as follows:

The determination of red blood cell volume or mass: 15 to 20 microcuries.

The study of red blood cell survival time: 100 microcuries.

The evaluation of blood loss: 200 microcuries.

Doses should be kept as small as will be consistent with accurate measurement throughout the time involved. For red blood cell volume, 15 to 20 microcuries as tagged red cells subjected for body weight between 100 to 200 pounds, and total dosage in the body at any one time should not exceed 390 microcuries. Because the radioactive tag is stable, repeat doses are seldom indicated even when measurements are made throughout several weeks; however, repeat doses may be required in conditions in which (1) there is rapid blood cell destruction and (2) survival studies are indicated before, during, and after treatment.

Information should also be presented relative to methods of performing the test, dosages, and interpretation.

Dosimetry information must be available in the labeling.

Tables of decay schedule must also be included.

The holder of the new-drug applications for the drugs listed above have been mailed a copy of the NAS-NRC report along with a copy of the labeling conditions contained in this announcement. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to the drugs listed in this announcement, or any other interested person, may obtain a copy of the NAS-NRC report by writing to the Food and Drug Administration, Press Relations Office, 200 C Street SW., Washington, D.C. 20204.

Written comments regarding this announcement may be addressed to the Special Assistant for Drug Efficacy Study Implementation, Bureau of Medicine, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, and should be submitted within 30 days following publication of this announcement in the FEDERAL REGISTER.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502(a), (f), 505, 52 Stat. 1041, 1050–53, as amended; 21 U.S.C. 321(p), 352 (a), (f), 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 24, 1968.

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

[F.R. Doc. 68-11885; Filed, Sept. 30, 1968; 8:48 a.m.]

ATLAS CHEMICAL INDUSTRIES, INC.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9L2340) has been filed by Atlas Chemical Industries, Inc., Wilmington, Del. 19899, proposing that the food additive regulations (21 CFR Part 121) be amended throughout to recognize the polysorbate names as the common or usual names for the following food additives as indicated:

1. Polysorbate 20 for the substance polyoxyethylene (20) sorbitan monolaurate.
2. Polysorbate 40 for the substance polyoxyethylene (20) sorbitan monopalmitate.
3. Polysorbate 60 for the substance polyoxyethylene (20) sorbitan monostearate.
4. Polysorbate 65 for the substance polyoxyethylene (20) sorbitan tristearate.
5. Polysorbate 80 for the substance polyoxyethylene (20) sorbitan monooleate.
6. Polysorbate 85 for the substance polyoxyethylene (20) sorbitan trioleate.

The petition also proposes that any references to the above-identified substances, sorbitan monooleate, and sorbitan monostearate be deleted from §§ 121.2507, 121.2526, 121.2531, 121.2535, 121.2536, 121.2550, 121.2553, 121.2557, 121.2566, and 121.2590 because § 121.2541 currently provides for use of these additives as contemplated.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11886; Filed, Sept. 30, 1968; 8:48 a.m.]

CIBA CORP.

Notice of Filing of Petition for Food Additive Sulfachlorpyridazine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by CIBA Corp., 556 Morris Avenue, Summit, N.J. 07901, proposing that § 121.309 *Sulfachlorpyridazine* (21 CFR 121.309) be amended to provide for the safe use of sulfachlorpyridazine in an oral suspension for the treatment of diarrhea caused or complicated by *E. coli* (colibacillosis) in baby pigs.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11887; Filed, Sept. 30, 1968; 8:48 a.m.]

CORN PRODUCTS CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9A2336) has been filed by Corn Products Co., International Plaza, Englewood Cliffs, N.J. 07632, proposing that § 121.1017 *Calcium disodium EDTA* (21 CFR 121.1017) be amended to provide for the safe use of calcium disodium EDTA in pickled vegetables, at a level not in excess of 220 parts per million, to promote color, flavor, and texture retention.

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11888; Filed, Sept. 30, 1968; 8:48 a.m.]

DOW CHEMICAL CO.

Notice of Filing of Petition for Food Additive Zoalene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by The Dow Chemical Co., Post Office Box 512, Midland, Mich. 48640, proposing that § 121.207 *Zoalene* be amended in the table regarding zoalene administered to replacement chickens by changing under the "Limitations" column the statement "(grower ration not to be fed to birds under 5½ weeks of age nor over 14 weeks of age)" to read "(not to be fed to birds over 14 weeks of age)."

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11889; Filed, Sept. 30, 1968; 8:48 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 9B2333) has been filed by E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended to provide for the safe use of butadiene-acrylonitrile copolymers and butadiene-methacrylonitrile copolymers as optional components of resinous and polymeric coatings for food-contact surfaces.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11890; Filed, Sept. 30, 1968; 8:49 a.m.]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346 a(d)(1)), notice is given that a petition (PP 9F0758) has been filed by E. I. du Pont de Nemours & Co., Wilmington, Del. 19898, proposing that § 120.132 *Thiram; tolerances for residues* (21 CFR 120.132) be amended to permit preharvest (the regulation currently permits post-harvest) application of the subject fungicide in the production of bananas. No change is proposed in the tolerance level which is 7 parts per million of which not more than 1 part per million shall be in the pulp after peel is removed and discarded.

The analytical method proposed in the petition for determining residues of the fungicide is the method of H. L. Pease published in the "Journal of the Association of Official Agricultural Chemists," volume 40, page 1113 (1957).

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11891; Filed, Sept. 30, 1968; 8:49 a.m.]

FULTS-SANKO

Change in Notice of Filing of Petition for Food Additives

In F.R. Doc. 68-8252 appearing at page 9968 in the issue of Thursday, July 11, 1968, the portion reading "1. Poloxalene as a nonionic wetting agent; and" is changed to read "1. Nonionic wetting agent consisting of a straight chain alcohol ethoxylate modified with propylene oxide; and".

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11892; Filed, Sept. 30, 1968; 8:49 a.m.]

GEIGY CHEMICAL CORP.

Notice of Amended Filing of Petition Regarding Pesticides

Notice was given in the FEDERAL REGISTER of October 27, 1966 (31 F.R. 13812), and amended on April 25, 1967 (32 F.R. 6412), that a petition (PP 7F0534) had been filed by the Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of tolerances for residues of the herbicide simazine (2-chloro-4,6-bis (ethylamino)-*s*-triazine) in or on certain raw agricultural commodities.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)) and § 120.9 of the pesticide procedural regulations (21 CFR 120.9), notice is given that said petition has been amended so that it proposes establishment of tolerances for residues of simazine in or on the raw agricultural commodities: Asparagus at 10 parts per million; artichokes at 0.5 part per million; almonds (hulls and nuts), apples, avocados, blackberries, blueberries, boysenberries, cherries, corn kernels and cobs (including field corn, sweet corn, and popcorn), corn forage and fodder (including field corn, sweet corn, and popcorn), cranberries, currants, dewberries, grapefruit, grapes, lemons, loganberries, macadamia nuts, olives, oranges, peaches, pears, plums, raspberries, strawberries, and walnuts at 0.25 part per million; meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep at 0.1 part per million; and in milk at 0.05 part per million.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11893; Filed, Sept. 30, 1968; 8:49 a.m.]

HESS AND CLARK; NORWICH PHARMACAL CO.

Notice of Filing of Petitions for Food Additive Nihydrazone

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that petitions (2) have been filed by Hess and Clark, Division of Richardson-Merrell, Inc., Ashland, Ohio 44805, and the Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, proposing that § 121.237 *Nihydrazone* (21 CFR 121.237) be amended to change the indications for use of the drug to read as follows:

1. Aid in the prevention of air-sac infection (chronic respiratory disease complex associated with *E coli*), paratyphoid due to *Salmonella typhimurium*, pullorum disease and fowl typhoid, coccidiosis caused by *E. tenella* and *E. necatrix*.

2. In the presence of air-sac infection (chronic respiratory disease complex associated with *E. coli*), to reduce mortality and severity of infection, lower condemnations, and assist in maintaining weight gains and feed efficiency.

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11894; Filed, Sept. 30, 1968; 8:49 a.m.]

HOFFMANN-LA ROCHE INC.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by Hoffmann-La Roche Inc., Nutley, N.J. 07110, proposing the establishment of a food additive regulation (21 CFR Part 121) to provide for the safe use of a combination drug containing sulfadimethoxine and 2,4-diamino-5-(4,5-dimethoxy-2-methylbenzyl) pyrimidine in the feed of broiler chickens for the prevention of certain bacterial diseases (infectious coryza and *E. coli* infections) and coccidiosis.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11895; Filed, Sept. 30, 1968; 8:49 a.m.]

KELCO CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 5A1784) has been filed by Kelco Co., 8225 Aero Drive, San Diego, Calif. 92123, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of xanthan gum as a stabilizer, emulsifier, thickener, suspending agent, bodying agent, or foam enhancer in nonstandardized foods in accordance with good manufacturing practice. The food additive is the sodium, potassium, or calcium salt of a polysaccharide gum derived from *Xanthomonas campestris* by a pure-culture fermentation process.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-11896; Filed, Sept. 30, 1968; 8:49 a.m.]

OLIN CHEMICALS

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 9F0754) has been filed by Olin Chemicals, 745 Fifth Avenue, New York, N.Y. 10022, proposing the establishment of tolerances for residues of the fungicide pentachloronitrobenzene in or on the raw agricultural commodities: Celery at 1 part per million; and alfalfa, bananas, beans, broccoli, brussels sprouts, cabbage, carrots, cauliflower, clover, cottonseed, flaxseed, garlic, mushrooms, peanuts, peas, peppers, potatoes, strawberries; and tomatoes at 0.1 part per million (negligible residues).

The analytical methods proposed in the petition for determining residues of the fungicide are: (1) The method of Henry J. Ackermann et al. published in "Agricultural and Food Chemistry," vol. 6, pp. 747–50 (October 1958); and (2) the method of Thomas P. Methratta et al. published in "Agricultural and Food Chemistry," vol. 15, pp. 648–50 (July/August 1967).

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68–11897; Filed, Sept. 30, 1968; 8:49 a.m.]

ROHM & HAAS CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9B2334) has been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for the safe use of polymethacrylic acid, sodium salt, as an optional component of paper and paperboard intended for food-contact use.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68–11898; Filed, Sept. 30, 1968; 8:49 a.m.]

WHITMOYER LABORATORIES, INC.

Notice of Withdrawal of Petitions for Food Additives Carbarsone (Not U.S.P.), Zinc Bacitracin, Zoalene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, Pa. 17067, has withdrawn its petitions (2), notice of which was published in the FEDERAL REGISTER of May 2, 1968 (33 F.R. 6753), proposing that the food additive regulations (21 CFR Part 121, Subpart C) be amended to provide for the safe use of (1) carbarsone (not U.S.P.) in combination with zoalene in turkey feed as an aid in the prevention of blackhead and for the prevention and control of coccidiosis, and (2) carbarsone (not U.S.P.) with zinc bacitracin in turkey feed as an aid in the prevention of blackhead and for the prevention or treatment of infectious sinusitis and bluecomb (mud fever) in turkeys.

Dated: September 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68–11901; Filed, Sept. 30, 1968; 8:49 a.m.]

3-(4-BROMO-3-CHLOROPHENYL)-1-METHOXY-1-METHYLUREA

Notice of Establishment of Temporary Tolerances

Notice is given that at the request of the CIBA Agrochemical Co., Vero Beach, Fla. 32960, temporary tolerances are established for residues of the herbicide 3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea in or on corn grain and corn fodder and forage at 0.2 part per million. The Commissioner of Food and Drugs has determined that these temporary tolerances are safe and will protect the public health.

A condition under which these temporary tolerances are established is that the herbicide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the CIBA Agrochemical Co. name.

These temporary tolerances expire September 20, 1969.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and delegated to the Commissioner (21 CFR 2.120).

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68–11899; Filed, Sept. 30, 1968; 8:49 a.m.]

2-*tert*-BUTYLAMINO-4-ETHYLAMINO-6-METHYLTHIO-*s*-TRIAZINE

Notice of Establishment of Temporary Tolerances

Notice is given that at the request of the Geigy Chemical Corp., Ardsley, N.Y. 10502, temporary tolerances are established for residues of the herbicide 2-*tert*-butylamino-4-ethylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodities wheat grain, green fodder, and straw at 0.25 part per million. The Commissioner of Food and Drugs has determined that these temporary tolerances will protect the public health.

A condition under which these temporary tolerances are established is that the herbicide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the Geigy Chemical Corp. name.

These temporary tolerances expire September 20, 1969.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and delegated to the Commissioner (21 CFR 2.120).

Dated: September 20, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68–11900; Filed, Sept. 30, 1968; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AREA OFFICE AND FLIGHT INSPECTION DISTRICT OFFICE AT DENVER, COLO.

Notice of Relocation

Notice is hereby given that on or about September 30, 1968, the Area Office and Flight Inspection District Office at 8055 East 32d Avenue, Stapleton International Airport, Denver, Colo., will be relocated at 10255 East 25th Avenue, Aurora, Colo. Services to the public will not be affected.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Los Angeles, Calif., on September 17, 1968.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 68–11863; Filed, Sept. 30, 1968; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Mexican Change List 249]

MEXICAN BROADCAST STATIONS

List of Changes, Proposed Changes and Corrections in Assignments

AUGUST 16, 1968.

Notifications under the provisions of Part III, section 2 of the North American Regional Broadcast Agreement.

List of changes, proposed changes, and corrections in assignments of Mexican broadcast stations modifying the appendix containing assignments of Mexican Broadcast Stations (Mimeograph No. 4721–6) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power watts	Antenna	Schedule	Class	Expected date of commencement of operation
XEWA (this corrects an omission made in List No. 105:Change in type of antenna. In operation with these characteristics since 12–24–48).	San Luis Potosi, S.L.P.	*540 kilocycles* 150,000	ND	U	I-A	*12–24–48*
XEIU (assignment deleted)	Manzanillo, Col.	*660 kilocycles* 500D/250N	ND	U	IV	
XETK (change in call letters, previously XERPS).	Mazatlan, Sin.	*630 kilocycles* 1000D/250N	ND	U	III	
XEJAC (assignment deleted)	Cardenas, Tab.	*880 kilocycles* 1000	ND	D	II	
XEEB (correction of an omission: In operation on 1010 kc/s since 3–20–62).	Esperanza, Son.	*1010 kilocycles* 250	ND	U	II	*3–20–62*
XEPC (assignment deleted)	Cd. Camargo, Chih.	*1020 kilocycles* 250	ND	D	II	
XECX (assignment of call letters).	Tala, Jal.	*1040 kilocycles* 250	ND	D	II	1–10–69 (Probable).
XEIT (correction of an omission: In operation since 7–20–64).	Cd. del Carmen, Camp.	*1070 kilocycles* 1000D/250N	ND	U	II	*7–20–64*
XEJAC (assignment of call letters).	Cardenas, Tab.	*1110 kilocycles* 1000	ND	D	II	6–14–69 (Probable).
XEWR (correction of an omission: In operation since 5–15–59).	Cd. Juarez, Chih.	*1110 kilocycles* 500	ND	D	II	*5–15–59*
XETE (in operation on 1140 kc/s since 7–28–68).	Tehuacan, Pue.	*1140 kilocycles* 1000	ND	D	II	*7–28–68*
XEDO (this confirms the call letters. In operation since 12–27–63).	Jojutla, Mor.	*1190 kilocycles* 1000	ND	D	II	*12–27–63*
SETE (assignment deleted. See 1140 kc/s).	Tehuacan, Pue.	*1310 kilocycles* 250D/100N	ND	U	IV	
XEBCC (new)	Cd. del Carmen, Camp.	*1340 kilocycles* 250	ND	U	IV	8–12–69 (Probable).
XEIT (assignment deleted. See 1070 kc/s).	Cd. del Carmen, Camp.	*1340 kilocycles* 250	ND	U	IV	
(New) (new)	Puerto Penasco, Son.	*1390 kilocycles* 500	ND	D	III	8–6–69 (Probable).
XEAC (in operation since 8–17–66).	Aguascalientes, Ags.	*1400 kilocycles* 500D/200N	ND	U	IV	*8–17–66*
(New) (assignment deleted)	Chihuahua, Chih.	*1420 kilocycles* 5000D/150N	ND	U	IIID/IVN	
XESD (assignment deleted)	Huatabampo, Son.	*1450 kilocycles* 1000D/250N	ND	U	IV	
XEND (correction of an omission: In operation since 9–13–54).	Durango, Dgo.	*1470 kilocycles* 350	ND	U	IV	*9–13–54*
XGGE (new)	Cd. Mante, Tams.	*1490 kilocycles* 250D/100N	ND	U	IV	8–10–69 (Probable).
XEEB (assignment deleted. See 1010 kc/s).	Esperanza, Son.	*1500 kilocycles* 250	ND	D	II	
XEFG (assignment deleted)	Tepatitlan de Morelos, Jal.	*1500 kilocycles* 500	ND	D	II	
XEJY (correction of an omission: In operation since 8–6–65).	El Gruyo, Jal.	*1540 kilocycles* 500	ND	D	II	*8–6–65*
XENC (in operation with 1000D/250N, ND, U, since 4–19–67).	Celaya, Gto.	*1540 kilocycles* 1000D/250N	ND	U	II	*4–19–67*
XEACJ (assignment deleted)	Cd. Juarez, Chih.	*1560 kilocycles* 1000	ND	D	II	
XEJPV (N. 31°39′00″ W. 106°22′30″) (new).	Zaragoza, Chih.	*1560 kilocycles* 1000	ND	D	II	2–10–69 (Probable).
XENMB (new)	Valladolid, Yuc.	*1590 kilocycles* 10,000	ND	D	III	8–12–69 (Probable).
XEACG (change in call letters, previously XEDO).	Acapulco, Gro.	*1600 kilocycles* 500	ND	U	III	

FCC NOTE: Mexican Change List No. 249 has not been received through official channels.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Assistant Chief, Broadcast Bureau.

[F.R. Doc. 68–11826; Filed, Sept. 30, 1968; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–11759 etc.]

AUSTIN BRADY ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

SEPTEMBER 23, 1968.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 18, 1968.

Take further notice that, pursuant to the authority contained in and subject

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-11759 E 8-9-68 [1] 9-6-68 [2]	Austin Brady (successor to Amerada Petroleum Corp.), Box 302, Garden City, Kans.	Cities Service Gas Co., Hugoton Field, Kearny County, Kans.	14.5	14.65
CI63-186 E 9-3-68	Cloyd R. Feick (successor to Blaho Oil & Gas Co.), R.F.D. No. 2, Walker, W. Va.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	25.0	15.325
CI63-553 E 8-27-68	John R. Maxfield et al. (successor to Biogco, Inc.), Post Office Box 202, Hillsdale, Mich. 49242.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI63-967 E 8-27-68	----do----	----do----	25.0	15.325
CI65-603 D 8-30-68 [3]	Marathon Oil Co. (Operator) et al., 539 South Main St., Findlay, Ohio 45840.	Natural Gas Pipeline Co. of America, Indian Basin Area, Eddy County, N. Mex.	Assigned	
CI65-726 C 9-9-68	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Natural Gas Pipeline Co. of America, Mobeetie Field, Wheeler County, Tex.	17.0	14.65
CI65-800 E 9-5-68	Investors Oil & Gas, Inc. (successor to Coler Yoakam, Jr. (Operator) et al.), Post Office Box 1217, Liberal, Kans. 67901.	Cities Service Gas Co., Pulley Gas Unit, Logan County, Okla.	12.0	14.65
CI66-794 C 9-5-68	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Transwestern Pipeline Co., Smith Perryton and Farnsworth, North (Miss.) Fields, Ochiltree County, Tex.	[4] 18.258	14.65
CI66-988 C&D 9-5-68	Shell Oil Co. (Operator) et al., 50 West 50th St., New York, N.Y. 10020.	Panhandle Eastern Pipe Line Co., South Bishop Field, Ellis and Roger Mills Counties, Okla.	[5] 17.0 [6] [7] 15.0	14.65
CI66-1264 C&D 9-9-68	Shell Oil Co	Panhandle Eastern Pipe Line Co., Northeast Gage and Tangier Fields, Ellis and Woodward Counties, Okla.	[7] 17.0	14.65
CI67-664 C 8-12-68	Calvert-Mid America, Inc. (Operator) et al., 2300 Fourth National Bank Bldg., Tulsa, Okla. 74119.	Arkansas Louisiana Gas Co., acreage in Haskell County, Okla.	15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI67-1393 A 4-7-67	Tamarack Petroleum Co., Inc.,[8] 413 First Savings & Loan Bldg., Midland, Tex. 79704.	El Paso Natural Gas Co., Spraberry Trend Area, Reagan County, Tex.	14.5	14.65
CI68-626 A 11-6-67	Perry R. Bass (Operator) et al.,[8] 1210 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	El Paso Natural Gas Co., Gomez Field Area, Pecos County, Tex.	16.3	14.65
CI69-182 B 8-19-68	Philadelphia Oil Co., 420 Boulevard of the Allies, Pittsburgh, Pa. 15219.	Equitable Gas Co., Clay District, Monongalia County, W. Va.	[9]	
CI69-223 A 8-29-68	Woods Petroleum Corp., c/o Jacob Goldberg, attorney, 810 Pennsylvania Bldg., Washington, D.C. 20004.	Texas Gas Transmission Corp., Pass Des Ilettes Field, Terre Bonne Parish, La.	21.25	15.025
CI69-236 B 9-3-68	Houchins Drilling Co	Equitable Gas Co., West Union Township, Doddridge County, W. Va.	[10]	
AI69-237 B 9-3-68	Lyons & Logan (Operator) et al., 1500 Beck Bldg., Shreveport, La. 71101.	Arkansas Louisiana Gas Co., Greenwood Waskom Field, Caddo Parish, La.	[11]	
CI69-238 B 9-3-68	C. H. Lyons, Sr. et al., 1500 Beck Bldg., Shreveport, La. 71101.	Arkansas Louisiana Gas Co., North Ruston Field, Lincoln Parish, La.	[11]	
CI69-239 (CI63-94) F 8-27-68	Graham-Michaelis Drilling Co., Operator (successor to Anadarko Production Co.), 302 Graham Bldg., Wichita, Kans. 67202.	Panhandle Eastern Pipe Line Co., Richfield Extensions Field, Morton County, Kans.	16.0	14.65
CI69-240 B 9-4-68	Texaco, Inc. (Operator) et al	Lone Star Gas Co., Sho-Vel-Tum Field, Stephens County, Okla.	Depleted	
CI69-241 A 9-4-68	Texas Oil & Gas Corp., Operator, c/o B. D. Gillentine, Assistant Vice President, 1001 Americana Bldg., Houston, Tex. 77002.	Transwestern Pipeline Co., acreage in Beaver County, Okla.	[7] 17.0	14.65
CI69-242 A 9-4-68	Shell Oil Co	Southern Natural Gas Co., Main Pass and South Pass Areas, Offshore Louisiana.	21.25	15.025
CI69-243 A 9-4-68	Za-Tex Corp., 324 Southwest Tower, Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Menfee Area, Wharton County, Tex.	17.0	14.65
CI69-244 A 9-5-68	Noble Oil Producers, Inc., Route 1, Albion, Ind.	Texas Gas Transmission Corp., Mackey Field, Gibson County, Ind.	17.0	15.025
CI69-245 A 9-4-68	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Pacific Lighting Service & Supply Co., Parcel 402, Offshore Santa Barbara County, Calif.	[12] 27.0 [12] 28.0	14.73
CI69-246 B 9-3-68	C.H. Lyons, Sr. et al	South Texas Natural Gas Gathering Co., Gueydan Field, Vermilion Parish, La.	[11]	
CI69-247 A 9-4-68	Hall-Jones Oil Corp. et al., 1704 Liberty Bank Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., Teagarden Field, Woods County, Okla.	[7] 17.0	14.65
CI69-248 A 9-4-68	Oklahoma and Northwestern Co., et al., c/o Ferrill H. Rogers, Attorney, 1420 Liberty Bank Bldg., Oklahoma City, Okla. 73102.	----do----	[7] 17.0	14.65
CI69-249 (CI61-1092) F 9-4-68	Robert F. White (Operator) et al. (successor to Oil & Gas Futures, Inc.), 714 Union Center Bldg., Wichita, Kans. 67202.	Panhandle Eastern Pipe Line Co., Greenwood Field, Morton County, Kans.	16.0	14.65
CI69-251 A 9-6-68	National Bank of Tulsa, Executor of the Estate of James A. Chapman, Deceased,[8] c/o William H. Bell, attorney, Rogers and Bell, Post Office Box 3209, Tulsa, Okla. 74101.	Natural Gas Pipeline Co. of America, acreage in Loving and Winkler Counties, Tex.	[7] 16.5	14.65
CI69-252 A 9-6-68	The Preston Oil Co., Post Office Box 1350, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 180 Field, West Cameron Area, Offshore Louisiana.	20.0	15.025
CI69-253 B 9-6-68	Leonard Fowler et al., Stumpton, W. Va.	Consolidated Gas Supply Corp., Center District, Calhoun County, W. Va.	Uneconomical	
CI69-254 B 9-5-68	Mesa Petroleum Co. (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79105.	Cities Service Gas Co., Lovedale Field, Harper County, Okla.	Depleted	
CI69-255 A 9-5-68	Freeport Oil Co. (division of Freeport Sulphur Co.), Post Office Box 52349, New Orleans, La. 70150.	Southern Natural Gas Co., Section 28 "Dome" Field, St. Martin Parish, La.	22.25	15.025

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI69-256 A 9-9-68	Union Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	Sea Robin Pipeline Co., Block 222, Ship Shoal Area, Offshore Louisiana.	21.25	15.025
CI69-257 A 9-9-68	Shell Oil Co.	Phillips Petroleum Co., Panhandle Field, Hutchinson County, Tex.	[14] 13.0 [15] 15.38581	14.65
CI69-258 A 9-9-68	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla, 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 174, West Cameron Area, Offshore Louisiana.	20.0	15.025
CI69-259 A 9-9-68	Texaco, Inc.	United Gas Pipe Line Co. and Southern Natural Gas Co., Block 205 Field, Eugene Island Area, Offshore Louisiana.	21.25	15.025
CI69-260 A 9-9-68	Eason Oil Co., Post Office Box 18755, Shartel Station, Oklahoma City, Okla. 73118.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	[7] 17.0	14.65
CI69-261 B 9-3-68	C. H. Lyons, Sr. et al.	Texas Eastern Transmission Corp., Naka and Port Barre (Leonville) Field, St. Landry Parish, La.	[11]	----

[1] Application previously noticed Aug. 30, 1968, in Docket Nos. G-4581 et al. at a total initial rate of 12.5 cents per Mcf.
[2] Revised contract summary filed to reflect a rate of 14.5 cents per Mcf in lieu of 12.5 cents.
[3] Deletes acreage assigned to David Fasken.
[4] Includes 1.256 cents upward B.t.u. adjustment.
[5] For gas attributable to acreage in Ellis County.
[6] For gas attributable to acreage in Roger Mills County.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Applicant has agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[9] Connor Lease was abandoned in 1955; remaining acreage has been assigned to Joseph H. Goth, Jr.
[10] Deliveries are below the minimum required.
[11] Well has ceased to produce.
[12] Casinghead gas.
[13] Nonassociated gas.
[14] For seven-eighths of gas.
[15] For one-eighth of gas.

[F.R. Doc. 68-11786; Filed, Sept. 30, 1968; 8:45 a.m.]

[Docket No. CP69-73]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

SEPTEMBER 24, 1968.

Take notice that on September 16, 1968, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP69-73 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to make increased sales of gas to Iowa Electric Light and Power Co. (Iowa Electric), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to sell an additional 2,196 Mcf of natural gas per day to Iowa Electric, an existing customer, for resale to The Grain Processing Co., Muscatine, Iowa. Applicant states that it has 2,196 Mcf per day unallocated capacity available from previously certificated expansion programs. The proposed sale is to be made under Applicant's CD-1 rate schedule.

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 21, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-11843; Filed, Sept. 30, 1968; 8:45 a.m.]

[Docket No. CP69-72]

NATURAL GAS PIPELINE COMPANY OF AMERICA AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 24, 1968.

Take notice that on September 16, 1968, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603, and Transcontinental Gas Pipe Line Corp. (Transco), Post Office Box 1396, Houston, Tex. 77001 (Applicants) filed in Docket No. CP69-72 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange up to 8,000 Mcf of natural gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The joint application sets forth that the exchange of natural gas will take place only in the event Natural is unable to complete the construction and place in operation before October 15, 1968, a supply line lateral necessary to connect Natural's Louisiana extension line with the Cameron Meadows Treatment Plant, Cameron Parish, La. The application states that Natural is to take delivery of gas at the Cameron Meadows Plant which will be sold to Natural by Pan American Petroleum Corp. under contract dated May 1, 1968. Specifically, if the proposed exchange is effectuated, Transco will take up to 8,000 Mcf for Natural's account at the Cameron Meadows Plant and will redeliver equivalent volumes to Natural at the existing interconnection between the two companies in the West Bernard Field, Wharton County, Tex. The application states that no monetary compensation is to be paid by either party; that the exchange will be effectuated with existing facilities, and that the exchange will terminate when Natural's lateral between Cameron Meadows Plant and Natural's Louisiana line is placed in operation, or February 1, 1969, whichever is earlier.

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 21, 1968.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-11844; Filed, Sept. 30, 1968; 8:45 a.m.]

[Docket No. CP69-66]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 24, [illegible].

Take notice that on September 12, 1968, Transcontinental Gas Pipe Line

Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP69-66 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission 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.

Specifically, Applicant requests authorization to construct, install, and operate 83.69 miles of 42-inch loop line at various locations on its main line system and 29,500 additional compressor horsepower in four existing compressor stations. Applicant states that these facilities will provide 106,460 Mcf per day of additional maximum winter day capacity on its main line system.

The total estimated cost of the proposed facilities is $35,106,000, which will be financed initially through short-term loans, commercial paper, or available 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 21, 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 motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-11845; Filed, Sept. 30, 1968; 8:45 a.m.]

NATIONAL COMMISSION ON PRODUCT SAFETY

[Public Law 90-146; 81 Stat. 466]

HOUSEHOLD PRODUCTS PRESENTING HEALTH AND SAFETY RISK

Notice of Hearing

Notice is hereby given that pursuant to section 3(a) of Public Law 90-146 the National Commission on Product Safety will hold public hearings at 9:30 a.m. on October 21, 22, and 23, 1968, at the U.S. Customs Court, 1 Federal Plaza, New York, N.Y. The hearings will deal with the following subjects:

(1) Identity of categories of household products which may present unreasonable risk to the health and safety of the consuming public;

(2) Nature and adequacy of existing methods used by industry to protect consumers; and

(3) Nature and adequacy of existing methods available under State, local and Federal laws to protect consumers.

Interested persons are invited to attend and participate by the submission of written statements. Such statements should be furnished to the Commission at its office, 1016 16th Street NW., Washington, D.C. 20036, not later than October 14, 1968. Such statements will be made a part of the record of the hearings and will be available for inspection by the public.

Oral testimony at these hearings will be furnished by witnesses invited by the Commission. Persons desiring to furnish oral testimony at subsequent Commission hearings are invited to so advise the Commission in writing.

Dated: September 23, 1968.

ARNOLD B. ELKIND,
Chairman.

[F.R. Doc. 68-11718; Filed, Sept. 30, 1968; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[81-68]

ATLANTA TIMES, INC.

Notice of Application and Opportunity for Hearing

SEPTEMBER 24, 1968.

In the matter of The Atlanta Times, Inc., Walter D. Sanders, Newnan, Ga., Trustee in Bankruptcy; 81-68.

Notice is hereby given that The Atlanta Times, Inc. (the "Company") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("Act"), for an order of the Commission exempting the Company from the provisions of section 12(g) of the Act. Exemption from section 12(g) will have the additional effect of exempting the Company from sections 13 and 14 of the Act and any officer, director, or beneficial owner or more than 10 percent of any class of equity security from section 16 thereof.

Section 12(g) of the Act requires the registration of the equity security of every issuer which is engaged in, or in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce and, on the last day of its fiscal year, has total assets exceeding $1 million, and a class of equity security held of record initially by 750 or more persons, and after July 1, 1966, by 500 or more persons.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions and to grant exemption from the insider reporting and trading provisions of the Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The application of the Company states in part:

(1) The Company was incorporated on June 8, 1961, under the laws of the State of Georgia for the primary purpose of engaging in the publication of a daily newspaper. On June 12, 1964, the Company commenced publication of The Atlanta Times.

(2) The Company ceased doing business on August 31, 1965, at which time it was insolvent. The most recent certified financial statements show that as of December 31, 1964, the Company had an accumulated deficit of $2,438,896.

(3) On September 1, 1965, the Company filed a petition for reorganization under Chapter XI of the Bankruptcy Act. The Company was unable to develop a satisfactory plan for reorganization and on January 17, 1966, it was adjudicated a bankrupt. The Company is presently undergoing liquidation.

(4) As of September 22, 1966, total assets of the Company not claimed by secured creditors were approximately $400,000. The total unsecured claims against such assets were approximately $1,500,000.

(5) The Company's books and records are incomplete and therefore the Trustee is unable to determine the exact number of stockholders. It is estimated that there are approximately 9,000 stockholders.

(6) The Company's common stock has never been actively traded over the counter, nor has it been quoted or traded by local broker-dealers. There have been no transactions in the stock during the past 3½ years.

For a more detailed statement of matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than October 15, 1968, submit to the Commission, in writing, his views or any additional facts bearing upon the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued by the

Commission unless an order for hearing upon said application be issued upon request or upon the Commission's own notice.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11867; Filed, Sept. 30, 1968; 8:47 a.m.]

STANWOOD OIL CORP.

Order Suspending Trading

SEPTEMBER 25, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Stanwood Oil Corp., Warren, Pa., 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 26, 1968, through October 5, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-11868; Filed, Sept. 30, 1968; 8:47 a.m.]

TARIFF COMMISSION

[AA1921-52/55]

PIG IRON FROM EAST GERMANY, CZECHOSLOVAKIA, ROMANIA, AND THE U.S.S.R.

Determinations of Injury

SEPTEMBER 25, 1968.

On June 25, 1968, the Tariff Commission received advice from the Treasury Department that pig iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R. is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1] Accordingly, on that same data the Commission instituted Investigations No. AA1921-52 (with respect to imports from East Germany), No. AA1921-53 (Czechoslovakia), No. AA1921-54 (Romania), and No. AA1921-55 (the U.S.S.R.) under section 201(a) of that Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of a joint hearing to be held in connection therewith was published in the FEDERAL REGISTER of June 28, 1968 (33 F.R. 9516). The hearing was held on July 29 and 30, 1968.

In arriving at its determinations the Commission gave due consideration to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the joint investigations, the Commission has determined that an industry in the United States is being injured by reason of the importation of pig iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R., sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1]

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF VICE CHAIRMAN SUTTON

In my view, an industry in the United States is being injured by reason of the LTFV imports of pig iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R. In arriving at this determination of injury under section 201(a) of the Antidumping Act, 1921, as amended, I have considered the injured industry to be those facilities of domestic producers devoted to the production of cold pig iron (hereinafter referred to as the cold pig iron industry), and have taken into account the combined impact on such industry of LTFV imports from all four countries collectively, rather than from each country individually.[2]

Inasmuch as the jurisdiction of the Tariff Commission arises under section 201(a) upon receipt of Treasury's determination of LTFV imports and as such agency has made separate determinations of LTFV sales of pig iron from each of the four countries, an effort is made below to explain why in my opinion the collective impact of such LTFV imports governs in the disposition of the matters before the Commission. Also, explanations are furnished for my view that the cold pig iron industry is the relevant industry in this case and that such industry is being injured by the LTFV imports in question.

COMBINED IMPACT OF LTFV IMPORTS GOVERNS

Section 201(a), as enacted,[3] included language designed to establish an orderly procedure for identifying the "class or kind" of imports which customs officers were to scrutinize following the issuance of a public finding of dumping by the Secretary. Although the amendments of the Antidumping Act in 1954[4] transferring the injury determination to the Tariff Commission introduced new preliminary procedures, they did not alter the foregoing procedure for identifying the "class or kind" of merchandise covered by the Secretary's finding issued in a given case following the respective affirmative determinations made by him and the Tariff Commission.

Treasury practice. It has been the practice of the Treasury from the outset of its jurisdiction in 1921 to limit the class or kind of foreign merchandise by specifying its source. The most frequent limitation to the article description has been the specification of the country of origin. I know of no instance of a single finding involving more than one country of origin. On the other hand, it seems that when more than one country was involved the Secretary made simultaneous but separate findings with respect to each such country. See, for example, the 8 separate but simultaneous affirmative findings of dumping with respect to safety matches from 8 countries;[5] also the 4 separate but simultaneous affirmative findings involving ribbon fly catchers from 4 countries.[6] In subsequently revoking such findings, the Treasury issued a single T.D. terminating the findings with respect to safety matches from 7 of the countries[7] and a single T.D. revoking several findings involving several classes of merchandise.[8]

Treasury, also, in treating with dumping findings, limited to a specified product from one country, has thereafter rescinded such findings piecemeal on a producer-by-producer basis.[9]

Treasury's practice has also included limitations of a dumping finding to products from a political subdivision of a country—such as from one of the provinces of Canada—and also to imports from one or more named foreign producers or sellers in a country.

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[1] Treasury published a separate determination of sales at less than fair value for each country in the FEDERAL REGISTER of June 26, 1968 (33 F.R. 9375).

[1] Vice Chairman Sutton and Commissioner Clubb determined there was injury and Chairman Metzger and Commissioner Thunberg determined there was no injury. Pursuant to section 201(a) of the Antidumping Act, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided. Statements of reasons for negative findings of injury by Chairman Metzger and Commissioner Thunberg are filed as part of the original document.

[2] A more detailed study of the separate impact of the LTFV imports of pig iron from each country, particularly such imports from Czechoslovakia and Romania which are relatively small, might have resulted in a determination of de minimis injury for each country. However, I have not pursued this course of action for the reason that I believe the law contemplates that the Commission consider the combined impact of all LTFV imports of pig iron.

[3] That whenever the Secretary of the Treasury * * *, after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies in such detail as may be necessary for the guidance of the appraising officers, 42 Stat. 11.

[4] Public Law 83-768, 68 Stat. 1136.

[5] T.D.s 44716 through 44723.

[6] T.D.s 50035 through 50038.

[7] T.D. 50026.

[8] T.D. 52370.

[9] See T.D.s 54168 and 54199 rescinding in part the Secretary's finding (T.D. 53567) with respect to hardboard from Sweden.

Bearing in mind the nature of the Secretary's operations, and the fact that his dumping findings made prior to 1954 involving multicountry sources for LTFV imports of the same class or kind seem to have been simultaneously issued, I find no warrant in such actions of the Secretary for concluding that he regarded the imports from one country as having to be considered for injury purposes as separate and distinct from the same articles also being dumped by one or more other countries.

All things considered, it is my belief that, prior to 1954, the Secretary, in issuing the formal finding(s) of dumping at the conclusion of an investigation with respect to a particular product, was treating with the LTFV imports of that product in a collective sense from whatever source they came, i.e., whether from more than one foreign producer or from more than one country, for the reason that nothing in the statute or its legislative history remotely suggests that injury to an industry is to be condoned when combined sources are involved so long as the LTFV imports from each source when considered alone do not cause injury. It is not logical to treat the Secretary's practice of making a separate finding for each country as anything other than a procedural or administrative convenience or expediency.

Tariff Commission practice. On four occasions since 1954 the Tariff Commission has received from the Treasury Department simultaneous, but separate, determinations covering the same product from different countries.[10] Each of these investigations resulted in unanimous negative determinations by the Commission. The statements of reasons indicated that the products had all been sold at prices equal to or higher than the comparable domestic product. For this reason, it was not necessary to resolve the issue of collective treatment of the dumped imports.

The issue has come up, however, in ways which illustrate the procedural difficulties introduced when Treasury staggers its determinations with respect to LTFV imports of the same products from more than one country. This type of problem is illustrated in the wire rod determinations, where Treasury made four separate determinations at different times with respect to such wire rods from Belgium, Luxembourg, Western Germany, and France. In these investigations argument was made that each country's exports of LTFV wire rods had to be separately considered in terms of their impact on a domestic industry. The Commission, in four separate unanimous negative determinations, included statements recognizing the issue.

In each of the negative wire rod determinations the Commission stated that it had taken into account a number of factors, the first two of which seem to imply a consideration of the combined injurious effect of LTFV imports from the four countries. However, the Commission determinations seem to have straddled the precise issue now before us, for in each of the determinations, the Commission seems to be implying that no matter whether you consider the LTFV imports separately or collectively the results are still the same.

The investigation which most directly involves the issue now before the Commission is the one with respect to cement from Portugal.[11] As a result of this investigation the Commission was divided; a majority in making the affirmative determination took into account that LTFV cement from Sweden had previously depressed the prices in the market areas in which the Portuguese cement was being sold. It noted that the latter cement was continuing such depressed prices and made an affirmative determination. The minority took the position that it was improper to consider the impact of any LTFV imports on an industry except those from Portugal.

The Portuguese cement case is the first case which has afforded an opportunity for judicial review of the present issue. The U.S. Customs Court in a recent ruling [12] on an appeal to reappraisement involving the assessment of dumping duties on cement from Portugal upheld the majority determination of the Commission. The court stated one of the importer's contentions in the case as being "that the Commission exceeded its statutory authority by predicating its finding of 'injury' almost entirely upon importations of cement from countries other than Portugal". In concluding that the Commission majority had acted properly in that case, the court said that under the extensive powers of the Commission—

> a consideration by them of the effect of prior determination of injury caused by sales of Belgium and Swedish cement at less than fair value, and their finding of injury herein, was an exercise of duly conferred authority, and is not ultra vires or null and void; does not result in exceeding its statutory authority; nor did the Commission predicate its finding of "injury" almost entirely upon importations of cement from countries other than Portugal.

The LTFV imports of cold pig iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R. were imported and sold in the markets of the United States during the same period of time. The collective imports began in 1964, reached their peak in 1966, and ceased shortly after the beginning of 1967 when appraisements of such imports were withheld by customs officers. I must conclude, on the basis of the foregoing considerations, that the purposes and language of the statute require that the Commission's determination take into account the combined impact of LTFV imports of cold pig iron from all of the countries in question.

DESCRIPTION AND USES

Virtually all the pig iron from the four Eastern Europe countries on which the Treasury Department found sales at LTFV consisted of the basic and foundry grades. Almost all basic pig iron is used in the United States for the purpose of making steel. The great bulk of pig iron produced in the United States is of the basic grade and is transferred from the blast furnace to the steel making furnace in the molten state. Nonintegrated steelmaking concerns (i.e., those having no blast furnaces) whether they make steel ingots or steel for casting, must purchase their requirements of basic pig iron. The volume of their pig iron requirements varies, of course, depending on the process used for steelmaking. Virtually all of their pig iron is purchased in the form of cold pig that requires remelting in the steel furnace. Fully integrated steel producers sometimes have occasion to buy basic cold pig iron, either domestic or imported, when needed to supplement their captive supply of hot metal; this need usually reflects the idling of one or more of their own blast furnaces for rebuild, ing, relining, or less extensive repairs.

Foundry pig iron is available in a wide variety of compositions and is used in the iron foundry industry for making iron castings such as pipe, automobile engine blocks and other automotive castings, and machinery parts. It normally has a higher silicon content (up to 3.5 percent or higher compared with a maximum of 1.5 percent in basic pig iron) and often contains less manganese. The foundry grades are usually shipped in the form of cold pig. Basic pig iron can be used for making iron castings but when so used the user incurs the further expense of additional ingredients (such as ferrosilicon) necessary to introduce elements not contained in the quantities required in basic pig iron.

Producers of cast-iron articles generally use a mixture of steel scrap, cast-iron scrap, and pig iron in their iron-making furnaces. The extent to which pig iron is used in the mix is dependent in part on the relative prices of pig iron and cast-iron scrap. By far the largest volume of cast-iron articles is made from a mixture containing pig iron which is usually 25 percent or more of the mix. However, there are situations in which highly sophisticated equipment can be used to produce broad specification cast iron from mixes containing no pig iron. In such situations pig iron is nevertheless used where the prices of cast-iron scrap nears the higher price of pig iron.

THE INJURED INDUSTRY

Significant distinctions between molten pig iron and cold pig iron, and the inevitable resulting differences in their handling, distribution and sale, lead me to conclude that the injured industry in this case consists of and is confined to the domestic facilities devoted to the production of cold pig iron. Molten pig iron is generally produced at a constant specification, is sold on a long term price basis, is delivered in large bulk quantities on a reasonably continuous basis, can be

[10] Hardboard from Canada and the Union of South Africa; tissue paper from Finland and Norway; rayon staple fiber from Belgium and France; and rayon staple fiber from Cuba and West Germany.

[11] Investigation No. AA 1921-22, Portland Grey Cement from Portugal, Oct. 20, 1961.

[12] City Lumber Co. v. United States, R.D. 11557, decided July 9, 1968, and now on appeal.

shipped only very limited distances, does not involve casting into pigs and attendant handling problems, and must be used promptly if there is to be a utilization of its molten condition. On the other hand, cold pig iron is generally produced by a merchant pig iron producer in a wide range of specifications to meet the needs of various users. To meet these various needs it is necessary to stockpile a large inventory of each specification pig iron which in turn necessitates frequent and costly time consuming changes in the blast furnaces. These frequent changes generate off-specification pig iron which is difficult to sell at normal cold pig iron prices. Buyers of cold pig iron are less constant in the quantities purchased and the frequency of their orders, demand various specifications in small lots, and tend to make shorter term purchase contracts.

THE COMPETITIVE IMPACT

In recent years steel producers have been building new basic oxygen steelmaking furnaces so as to materially reduce the melting time in making steel. For technical reasons, which need not be explained here, the basic oxygen process does not permit the use of as much scrap metal in a steel-making mix as can be used in most other steel-making furnaces. As a result of the technological improvement in steel furnaces, the conversion of the industry to the better process has created a greater supply of scrap metal in the United States which has resulted in lower prices for such scrap. In part because of the lower priced scrap, users of cold pig iron have sought technological improvements in their plants to better utilize more scrap which sells for less than domestic pig iron. As a result of these factors, the prices of domestic cold pig iron have been unstable and sales by domestic producers of cold pig iron have yielded less revenue. In such unstable market conditions, domestic cold pig iron producers have generally not been able to sell at their published prices nor to make long term sales. Indeed, they have had to negotiate many of their sales at prices lower than their published prices in order to meet competitive conditions of the moment. With this highly price-sensitive market in mind one may readily weigh the impact of the entry of the LTFV imports into the domestic market.

Market penetration. Imports of cold pig iron at less than fair value began in 1964 when they amounted to 1.6 percent of domestic shipments, including intercompany transfers of cold pig iron. In 1965 they amounted to 3.4 percent; in 1966 they amounted to about 12.4 percent. Thereafter, the growth in penetration ceased when imports stopped as a result of Treasury's order to withhold appraisement of future shipments, an action which could result in the assessment of special dumping duties with respect to subsequent shipments. During this period the domestic industry was operating at an average of 68 percent capacity (based on days of operation) and carried inventories of not less than 760,000 long tons of cold pig iron.

Price depressant effect. Although the LTFV imports were sold to at least 17 domestic users of pig iron located in various parts of the United States, about 70 percent of the imports was sold to four purchasers located in Alabama, Illinois, Indiana, and Pennsylvania. Detailed confidential data was obtained from these concerns. An analysis of the collective cold pig iron buying habits of these four purchasers is quite persuasive as to the price depressing effect of the presence of LTFV pig iron on the U.S. market.

Prior to 1963 at least three of the four companies used substantial quantities of domestic pig iron in their operations. In 1963, 1 year before the entry of LTFV imports into the market, they were using domestic and foreign pig iron [13] at the ratio of 1 to 2, respectively. In 1964 the ratio became about 1 to 5. In 1965, when LTFV imports were first sold to the four concerns, the ratios became approximately 1 domestic to 2 foreign pig iron imports to 3 LTFV imports. In 1966, the ratios became 1 domestic to 6 foreign pig iron imports to 20 LTFV imports; in that year the domestic purchases consisted of off-grade cold pig iron.

In 1963, the four concerns bought foreign pig iron at about $18 less per long ton than the average price of their purchases of domestic pig. In 1964, the price differential narrowed to about $14.50, the adjustment being effected primarily by an increase in the average price of the foreign pig. In 1965, when the LTFV imports were first purchased by the four concerns at an average price almost $17 less than the 1964 price of domestic cold pig iron, the effect was immediate. The average price of the domestic pig purchased by these concerns dropped over $6 per long ton and the average price of foreign pig iron dropped 38 cents per long ton. Neither the domestic producers nor the foreign pig iron producers met the prices of the LTFV imports in 1965. In 1966, the importers of LTFV pig iron again lowered their average price by $1.03 per ton. The sellers of foreign pig iron dropped their average price below the prices of the LTFV pig iron by 40 cents per ton in an unsuccessful attempt to retain their share of the sales to the four concerns, and with the exception of offgrade pig iron sales of domestic pig iron to the four concerns ceased. Upon the cessation of LTFV imports when customs officers withheld appraisement, the prices of domestic and foreign pig iron to the four concerns rose to appreciably higher levels.

In summary, the importers of LTFV pig iron from the four Eastern European countries are greatly underselling domestic producers of cold pig iron and are appreciably underselling importers of other foreign pig iron. This practice has caused a significant depression in prices of cold pig iron in the domestic market that was already price-sensitive when the LTFV pig iron entered it, and has resulted in an appreciably rapid market penetration. Such injury to the domestic cold pig iron industry is clearly more than de minimis.

There was some evidence that the low prices of the LTFV pig iron were also affecting the cast-iron scrap industry in the United States. However, in view of this determination of injury to the domestic cold pig iron producers, it is not necessary to pursue and weigh the degree of injury caused to the cast-iron scrap industry.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF COMMISSIONER CLUBB

I concur in Commissioner Sutton's finding of injury and the reasons given therefor.

The facts in this case are reasonably clear. Beginning in 1964 unfairly priced pig iron began to arrive from East Germany, in 1965 from the Soviet Union, and in 1966 from Romania and Czechoslovakia. As a result of the unfairly low prices, imports from these sources increased rapidly from 51,000 tons in 1964 to 349,000 tons in 1966. Overall imports increased during this same period from 658,000 tons to 1,060,000 tons.

The domestic producers of cold pig iron maintain that the unfair imports have injured them by taking sales, depressing prices, and causing potential purchasers to avoid long term contracts with domestic producers. The importers of LTFV cold pig iron argue that their imports did not injure the domestic cold pig iron industry because the LTFV imports competed only with other fairly priced imports and with scrap, but not with domestically produced cold pig.

There appears to be a direct and immediate competition between (1) fairly priced imported cold pig; (2) unfairly priced imported cold pig; (3) domestically produced cold pig; and (4) iron and steel scrap. For the most part these materials appear to be largely interchangeable, although this is not always true.

The mix of these materials used by the four firms which received a large portion of the unfairly priced imports varied as follows:

	Scrap	LTFV Imported pig	FV Imported pig	Domestic pig
	Percent	*Percent*	*Percent*	*Percent*
1963	86.5	0	8.6	4.9
1966	83.8	12.4	3.2	.6
Net change	−2.7	+12.4	−5.4	−4.3

It therefore seems clear that the unfairly priced imports displaced domestic pig iron as well as scrap and other imports in the case of these users, and there is reason to believe that this is true of other users as well. Moreover, the price depressing effects noted by Vice Chairman Sutton are indicative of a more general disruptive effect.

The importer of Czechoslovakian, East German, and Romanian pig iron concedes that under tests adopted in the recent Cast Iron Soil Pipe and Titanium Sponge cases, injury must be found here.

[13] As used here the term "foreign pig iron" refers to cold pig iron of foreign origin other than from the four Eastern European countries named by Treasury.

But it strongly argues that the injury standard adopted in those cases was wrong, because the Commission there held that the "injury" requirement of the Antidumping Act of 1921 is satisfied by a showing of anything more than a trivial or inconsequential effect on a domestic industry. Respondent contends that the Act requires a greater degree of injury; that while the Act says "injured," it has always been interpreted to mean "materially injured," and that the term "materially injured" may mean a very small effect or very large effect depending on the case; that Congress has approved this interpretation; and that "it was left to this Commission to work out, on a case-by-case basis, in factual terms, the situations which would be considered to constitute material injury or the threat thereof, avoiding either extreme construction." If respondent's view of the Act were to prevail, the Commission would be free to require a small injury in one case and a large injury in the next.

I cannot agree. No criteria has been suggested for use in determining when the Commission should require a greater or lesser showing of injury, and respondent suggests none here. Under this interpretation a case which failed one day might, for no apparent reason, succeed the next. The Act does not give the Commission such a free hand.

The Act, unchanged in substance since 1921, states that:

"[T]he * * * Commission shall determine * * * whether an industry in the United States is being or is likely to be injured * * * by reason of the importation of * * * [LTFV products] into the United States." 19 U.S.C. section 160(a) (1965).

The Act employs the bare term "injured", but here, as elsewhere, the law will not deal with trifles, and, accordingly, it was sometimes said that material (as opposed to immaterial) injury was required. Of course, "immaterial injury" is, in a sense, a contradiction in terms because if the effect is immaterial, it does not amount to "injury" under the Act.[14] But this small semantic difficulty could be tolerated as long as it did not affect the substance of the Act.

In 1951 the Administration requested Congress to amend the Act to make it read "materially injured", rather than just "injured", and at this point the Ways and Means Committee detected what it thought was more than a semantic problem with the term. Although the amendment was presented as merely declarative of the de minimis rule, i.e., the law will not deal with trifles,[15] the Committee refused to recommend it because: Certainly it cannot be said that Congress had at that point approved the flexible standard urged by respondent.

In 1954 the Act was amended to transfer the injury determination function to the Commission, and in the hearings which preceded that amendment, the Commission's General Counsel appeared and stated that the Commission would interpret "injured" to mean "materially injured" unless Congress instructed otherwise.[16] Here, again, however, the term "materially injured" was presented as merely an expression of the de minimis rule.

In 1957 a representative of the Treasury Department finally brought out the flexible, sliding scale interpretation of "materially injured" which Congress feared would be adopted when it refused to write "materially" into the Act, and which respondent urges here. In this connection the Treasury representative said,[17]

The Treasury has in the past suggested the definition "material" injury. In the meantime others have suggested that this adjective is so vague as to be of no help. For example, to say that 'material injury' must be experienced by a domestic industry before the antidumping duties are to be applied might mean no more than that the disadvantage to the domestic interests must be somewhat more than insignificant, since here, as elsewhere, the 'law does not take account of trifles.' On the other hand, the term "material injury" might be construed to mean that antidumping duties are to be applied only if the offending imports have a substantial, important, or possibly a serious effect on the economic status of the domestic industry involved.

* * * * *

It is concluded that the particular facts of particular cases will justify in some instances a determination of injury where that injury is anything more than insignificant or insubstantial, and that in other instances the determination will require considerably more injury than that. To go to either of these extremes in defining the degree of injury required would be to take a rigid position on the side of the protectionists or the free traders which is not, it is believed, justified, either by the legislative history or by conditions as they exist today.

The Congress was then asked not to amend the injury language of the Act, and it did not. Respondent argues that it

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[14] Cf. Whitaker Cable Corporation v. F.T.C., 239 F. 2d 253, 256 (7th Cir., 1956), where the Seventh Circuit applied the same reasoning to the Robinson-Patman Act:

"We do not mean to suggest that the Act may be violated a little without fear of its sanctions but rather that insignificant 'violations' are not, in fact or in law, violations as defined by the Act. If the amount of the discrimination is inconsequential or if the size of the discriminator is such that it strains credulity to find the requisite adverse effect on competition, the Commission is powerless under the Act to prohibit such discriminations * * *"

[15] During Ways and Means Committee hearings on this proposal, the following exchange took place between a Committee member and a representative of the Treasury Department:

MR. REED. * * * By section 2 of this bill there is inserted in this language the word "materially" before the word "injured."

* * * [W]ould not this change, to all intents and purposes, nullify the Antidumping Act?

* * * * *

MR. NICHOLS. Mr. Chairman, as I understand Mr. Reed's question, he asks whether this bill would detract from the provisions of the antidumping law, which requires the Secretary to take action in the event that injury to an American industry is threatened.

The answer to that is that the bill would require him to take action in such a case, just as the present law does. There is no change effected in that respect.

MR. REED. What about the word "materially" there? That is not in the Dumping Act.

MR. NICHOLS. If a material injury were threatened, he would take action, just as he would now. The only change in this language is to make it clear that he is not called on to take action in a case of an insubstantial injury or a de minimis injury.

MR. REED. Then it does change the dumping law.

MR. NICHOLS. We have never understood that the law required us to take action in the case of an insubstantial injury, and we have never done so. This is, in practical effect, declaratory of the existing law. Hearings on H.R. 1535 before Comm. on Ways and Means, 82nd Cong., 1st Sess. 53 (1951).

The Committee decided not to include this change in the pending bill in order to avoid the possibility that the addition of the word 'materially' might be interpreted to require proof of a greater degree of injury than is required under existing law for imposition of antidumping duties. The committee decision is not intended to require imposition of antidumping duties upon a showing of frivolous, inconsequential or immaterial injury. H.R. Rep. No. 1089, 82nd Cong., 1st Sess. 7 (1951).

[16] The Ways and Means Committee discussion on this subject with the Commission's General Counsel was as follows:

MR. KAPLOWITZ. * * * It is our understanding that the Treasury in administering the dumping statute has interpreted the word "injury" as meaning material injury. If the Congress desires that this term be given any different interpretation, it should clearly express its intent.

* * * * *

MR. BYRNES. Another question. Going into this dumping provision, in your statement here you suggest that the Treasury interprets the word "injury" to mean material injury. You raise some question as to whether Congress should not take some action to tell whoever is administering this whether they mean injury or material injury.

What does the law say? The law says "injury", doesn't it?

MR. KAPLOWITZ. Yes, sir, the law says "injury."

MR. BYRNES. That is the way the law will read after this bill is passed, is it not? It will still be just "injury?"

MR. KAPLOWITZ. Yes, sir, if it is not amended.

MR. BYRNES. Why would the Tariff Commission be wedded to any prior interpretation of "injury" that had been given in the past by the Treasury Department?

MR. KAPLOWITZ. I believe the answer to that is that in using such a term as "injury", it would be assumed, I think normally, that Congress did not intend insignificant injury or very minor injury. Of course, it all depends on how you interpret the word "material." Hearings on H.R. 9476, Ways and Means Committee, 83rd Cong., 2d Sess. 35–37 (1954).

[17] Hearings before the Committee on Ways and Means on Amendments to the Antidumping Act of 1921, as amended, 85th Cong., 1st Sess. 17–18 (July 1957).

is, therefore, "a fair inference that the Congress accepted the Treasury construction of the word "injury." I disagree. Congress cannot be expected to refute every erroneous statutory interpretation suggested to it on pain of having the erroneous interpretation adopted if it does not legislate. This is especially true where, as here, the intent of Congress on this matter had already been made very clear.

It is clear that Congress has not ratified by implication the flexible, ambiguous meaning of "injured" suggested by the 1957 Treasury statement, and urged by respondent here. On the contrary, Congress appears to have resisted substantial administrative pressure over a period of years to engraft the flexible injury concept onto the statute. Under the circumstances any attempt on our part to impose on the Act an interpretation which requires anything more than de minimis injury is clearly unwarranted.

It is thus clear that in this case injury within the meaning of the statute has occurred as a result of the LTFV imports from Czechoslovakia, Romania, East Germany, and the U.S.S.R.

Counsel for the U.S.S.R. exporter argues, however, that the effect of the LTFV sales from each country should be considered separately. Presumably, under this theory if the unfairly priced imports from each country did not by themselves cause injury to a domestic industry, dumping duties should not be applied despite the fact that the combined effect of the unfairly priced imports clearly do cause injury. It is sufficient to note with respect to this contention that the statute was written to protect domestic industries against an unfair trade practice which Congress feared might injure them. An industry can be injured as much by a few LTFV imports from each of many countries as it can be by many unfair imports from each of a few. The question in each case, therefore, is whether a domestic industry is being or is likely to be injured by LTFV sales. If so, such sales from all sources must cease, if they are contributing to the injury.

I am satisfied that the domestic cold pig iron industry is being injured by LTFV sales, and that the unfairly priced imports from all four countries are contributing to the injury.

* * * * *

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 68-11853; Filed, Sept. 30, 1968; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Alexandria Industrial Garment Manufacturing Co., Inc., Alexandria, Tenn.; 8-15-68 to 8-14-69 (work shirts).

Big River Manufacturing Co., Kittanning, Pa.; 8-23-68 to 8-22-69 (boys' shirts).

Clover Manufacturing Co., Bristol, Va.; 8-19-68 to 8-18-69; 10 learners (men's and women's outerwear jackets).

Cordele Uniform Co., Cordele, Ga.; 8-21-68 to 2-20-69 (men's and women's washable service apparel).

Delmeade Slacks, Inc., Okolona, Miss.; 8-23-68 to 8-22-69 (ladies' slacks).

Edmonton Manufacturing Co., Edmonton, Ky.; 8-14-68 to 8-13-69 (men's coveralls, pants and outerwear jackets).

Elder Manufacturing Co., Dexter, Mo.; 8-21-68 to 8-20-69 (men's and boys' shirts and slacks).

Excelsior Frocks, Inc., Archbald, Pa.; 8-15-68 to 8-14-69; 10 learners (ladies' dresses).

Fleetline Industries, Inc., Garland, N.C.; 8-23-68 to 8-22-69 (men's shirts).

J. Freezer & Sons, Inc., Radford, Va.; 8-9-68 to 2-8-69 (men's shirts).

J. Freezer & Sons, Inc., Rural Retreat, Va.; 8-9-68 to 2-8-69 (men's shirts).

G & S Manufacturers, Inc., Auburn, Nebr.; 8-31-68 to 8-30-69 (boys' outerwear coats).

Gary Co., Inc., Gallatin, Tenn.; 8-6-68 to 8-5-69 (men's dress shirts).

Glenn Clothing Manufacturing Co., Inc., Clintwood, Va.; 8-22-68 to 8-21-69. (boys' trousers).

Glenn's All-American Sportswear, Inc., Amory, Miss.; 8-12-68 to 8-11-69 (men's dress pants).

Greensboro Manufacturing Co., Greensboro, Ga.; 8-17-68 to 8-16-69 (men's and boys' slacks, men's walking shorts).

F. Jacobson & Sons, Inc., Middlesboro, Ky.; 8-16-68 to 8-15-69 (men's dress shirts).

Katz Underwear Co., No. 1, No. 2, Honesdale, Pa.; 8-14-68 to 8-13-69 (women's and misses' nightgowns and pajamas).

Kingstree Industries, Inc., Kingstree, S.C.; 8-15-68 to 8-14-69; 10 learners (ladies' sportswear).

Laurens Shirt Corp., Laurens, S.C.; 8-14-68 to 8-13-69 (men's dress and sport shirts).

Linden Manufacturing Co., Newmanstown, Pa.; 8-7-68 to 8-6-69; 10 learners (ladies' blouses).

Linden Manufacturing Co., Womelsdorf, Pa.; 8-7-68 to 8-6-69; 10 learners (ladies' blouses).

Allan Merrill Manufacturing Co., Chisholm, Minn.; 8-14-68 to 8-13-69 (men's and boys' outerwear jackets).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa.; 9-4-68 to 9-3-69 (men's dress shirts).

Modelrite Dress Co., Dunmore, Pa.; 8-13-68 to 8-12-69; 5 learners (women's dresses).

Niemor Contractors, Newark, N.J.; 8-15-68 to 8-14-69 (men's and boys' outerwear jackets).

Petersburg Manufacturing Co., Petersburg, Tenn.; 8-29-68 to 8-28-69 (men's and boys' knit shirts).

Phil Campbell Manufacturing Co., Phil Campbell, Ala.; 8-23-68 to 8-22-69 (boys' jeans).

Piedmont Garment Co., Inc., Harmony, N.C.; 8-28-68 to 8-27-69 (ladies' blouses).

Plains Manufacturing Co., Inc., Plains, Pa.; 8-18-68 to 8-17-69 (brassieres).

Raycord Co., Inc., Spartanburg, S.C.; 8-22-68 to 8-21-69 (men's sport shirts).

Reed Manufacturing Co., Inc., Nettleton, Miss.; 8-19-68 to 8-18-69 (men's and boys' pants).

Riveredge Dress Corp., New Bedford, Mass.; 8-26-68 to 8-25-69; 10 learners (cotton dresses).

Salem Garment Co., Salem, S.C.; 8-25-68 to 8-24-69 (women's dresses).

Sampson Sewing Co., Clinton, N.C.; 8-22-68 to 8-21-69 (children's carcoats).

Sanford Manufacturers Inc., Sanford, Fla.; 9-3-68 to 9-2-69; 10 learners (men's and boys' pajamas).

Scamper Sportswear, Inc., Hazelton, Pa.; 9-4-68 to 9-3-69 (ladies' and children's outerwear jackets).

Sevier Industries, Inc., Sevierville, Tenn.; 8-24-68 to 8-23-69 (men's and boys' pants).

Shawnee Garment Manufacturing Corp., Shawnee, Okla.; 8-25-68 to 8-24-69; 10 learners (men's, boys' and ladies' jeans and outerwear jackets).

Somerset Shirt & Pajama Co., Somerset, Pa.; 8-23-68 to 8-22-69 (boys' cotton nightwear).

Levi Strauss & Co., Maryville, Tenn.; 8-16-68 to 8-15-69 (men's and boys' corduroy slacks).

Levi Strauss & Co., Wichita Falls, Tex.; 8-25-68 to 8-24-69 (men's and boys' pants).

Todd Manufacturing Co., Elkton, Ky.; 8-19-68 to 8-18-69 (work shirts and work jackets).

Vernon Manufacturing Co., Inc., Vernon, Ala.; 9-1-68 to 8-31-69 (men's dress pants).

Williamson-Dickie Manufacturing Co., Weslaco, Tex.; 8-18-68 to 8-17-69 (men's and boys' pants).

J. M. Wood Manufacturing Co., Inc., Hillsboro, Tex.; 8-21-68 to 8-20-69 (men's trousers).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Angelica Uniform Co., No. 22, Mountain View, Mo.; 8-17-68 to 2-16-69; 50 learners (men's washable service coats).

Charmoll, Inc., Amery, Wis.; 8-17-68 to 2-16-69; 15 learners (men's, women's and children's outerwear).

Glenn Clothing Manufacturing Co., Inc., Clintwood, Va.; 8-22-68 to 2-21-69; 50 learners (boys' trousers).

The Jay Garment Co., Clarksville, Tenn.; 8-9-68 to 2-8-69; 75 learners (men's work shirts).

Junction City Manufacturing Co., Junction City, La.; 8-6-68 to 2-5-69; 30 learners (ladies' brassieres).

Sanford Manufacturers, Inc., Sanford, Fla.; 8-22-68 to 2-21-69; 20 learners (men's and boys' pajamas).

Somerville Manufacturing Co., Inc., Vivian, La.; 8-12-68 to 2-11-69; 50 learners (men's slacks).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Haynesville Manufacturing Co., Inc., Haynesville, La.; 8–12–68 to 8–11–69; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Tex-Sun Glove Co., Corsicana, Tex.; 8–19–68 to 8–18–69; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

J. A. Cline & Son, Inc., Hildebran, N.C.; 8–20–68 to 8–19–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Hazlehurst Manufacturing Co., Inc., Hazlehurst, Ga.; 8–19–68 to 2–18–69; 25 learners for plant expansion purposes (women's and children's underwear).

Isaacson-Carrico Manufacturing Co., El Campo, Tex.; 8–25–68 to 8–24–69; 5 learners for normal labor turnover purposes (girls' underwear and sleepwear).

Sierra Lingerie Co., Ogden, Utah; 8–25–68 to 8–24–69; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's undergarments).

The following student-worker certificates were issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates, number of student-workers, and learning periods for the certificates issued under Part 527 are as indicated below:

Brigham Young University, Provo, Utah; 9–1–68 to 8–31–69; authorizing the employment of: (1) 100 student-workers in the university press industry in the occupations of press operating, assembly workers for a learning period of 1,000 hours at the rates of $1.40 for the first 500 hours and $1.45 an hour for the remaining 500 hours; press clerical workers, typists, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (2) 50 student-workers in the broadcast services industry in the occupations of technicians, clerks, stenographers, production assistants, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (3) 15 student-workers in the motion picture production industry in the occupations of technicians, production assistant, clerical workers, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (4) 60 student-workers in the continuing education and educational media services in the occupations of clerical workers, inspection, shipping, receiving, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (5) 50 student-workers in the public relations and telephones industry in the occupations of switchboard operators, typist, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (6) 50 student-learners in the computer research industry in the occupations of key punch operators, computer operators, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (7) 35 student-workers in the admissions, records, and alumni industry in the occupations of record clerks, key punch operators, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (8) 70 student-workers in the research division industry in the occupation of research assistants, for a learning period of 300 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; and (9) 15 student-workers in the bookstore receiving industry in the occupation of receiving clerks for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours.

The student-worker certificates were issued upon the applicant's representations and supporting materials fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 20th day of September 1968.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 68–11849; Filed, Sept. 30, 1968; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 26, 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. 41453—*Iron or Steel Articles to Points in Louisiana.* Filed by Southwestern Freight Bureau, agent (No. B–9108), for interested rail carriers. Rates on iron or steel articles, viz.: angles, beams, bars, NOIBN, and channels, in carloads, from specified points in Illinois, Indiana, Kansas, and Missouri, to specified points in Louisiana.

Grounds for relief—Market competition.

Tariff—Supplement 77 to Southwestern Freight Bureau, agent, tariff ICC 4753.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–11878; Filed, Sept. 30, 1968; 8:48 a.m.]

[Notice 697]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 24, 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, issued on April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be field 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.

MOTER CARRIERS OF PROPERTY

No. MC 23942 (Sub-No. 18 TA), filed September 19, 1968. Applicant: THE SEACOAST TRANSPORTATION COMPANY, 500 Water Street, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, from Jacksonville, Fla., to Waycross, Ga., over U.S. Highway 1, service not to commence prior to January 9, 1969. NOTE: Applicant intends to tack this authority with that presently held, for 180 days. Supporting shippers: There are approximately (30) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 51146 (Sub-No. 105 TA), filed September 19, 1968. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54303. Applicant's representative: D. F. Martin (same address as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Meat products* (except commodities in bulk), from Edgar, Wis., to New York, N.Y., for 180 days. Supporting shippers: Berlin & Marx, 555 West Street, New York, N.Y. 10014 (William F. Barliner), and Edgar Packing Co., Edgar, Wis. 54426 (R.W. Brennan, Sec.-Treas. and Manager). 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 52460 (Sub-No. 92 TA), filed September 19, 1968. Applicant: HUGH BREEDING, INC., 1420 West 35th, Post Office Box 9515, Tulsa, Okla. 74107. Applicant's representative: Steve B. McComas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate, fertilizer compounds, fertilizer materials and blends thereof*, from Beaumont, Tex., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, with the return of *rejected shipments, containers, or pallets*, for 180 days. Supporting shipper: J. L. Tompkins, General Traffic Manager, Mobil Chemical Co., 401 East Main Street, Richmond, Va. 23208. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 107002 (Sub-No. 350 TA), filed September 19, 1968. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80, West Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide*, crude, in slurry, in bulk, in tank vehicles, from Hamilton, Miss., to Savannah, Ga., for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: District Supervisor Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, 145 East Amite Street, Jackson, Miss. 39201.

No. MC 107002 (Sub-No. 351 TA), filed September 19, 1968. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80, West Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphate of alumina (alum)*, liquid, in bulk, in tank vehicles, from Ferguson, Miss., to Pineville, La., for 180 days. Supporting shipper: American Cyanamid Co., Industrial Chemicals Division, Wayne, N.J. 07470. Send protests to: District Supervisor Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, 145 East Amite Street, Jackson, Miss. 39201.

No. MC 108207 (Sub-No. 249 TA), filed September 19, 1968. Applicant: FROZEN FOOD EXPRESS, Post Office Box 5888, 318 Cadiz Street (75207), 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: *Fresh fruits and vegetables*, when moving in the same vehicle and at the same time with shipments of bananas, from Gulfport, Miss., to points in Arizona, Arkansas, Illinois, California, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Texas, Tennessee, and Wisconsin, restricted to points and areas from and to which applicant is presently authorized to transport bananas, for 180 days. NOTE: Does not intend to tack with existing authority. Supporting shipper: Standard Fruit and Steamship Co., International Trade Mart Building, Post Office Box 50830, New Orleans, La. 70150. 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 109637 (Sub-No. 347 TA), filed September 19, 1968. Applicant: SOUTHERN TANK LINES, INC., Post Office Box 1047, 4107 Bells Lane (40211), Louisville, Ky. 40201. Applicant's representative: Harris G. Andrews (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Lawrenceburg, Ind., to Louisville, Ky., for 180 days. Supporting shipper: W. T. Patterson, Assistant General Traffic Manager, Joseph E. Seagram & Sons, Inc., 375 Park Avenue, New York, N.Y. 10022. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 114106 (Sub-No. 62 TA), filed September 19, 1968. Applicant: MAYBELLE TRANSPORT COMPANY, 1820 South Main Street, Box 573, Lexington, N.C. 27292. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* in bulk, from Charlotte and Lexington, N.C., to points in North Carolina, restricted to salt having a prior movement by rail, for 180 days. Supporting shippers: International Salt Co., Southern Traffic Office, Whitney Bank Building, New Orleans, La. 70130. Attention: John F. Roth, Jr., Southern Traffic Manager; Diamond Crystal Salt Co., St. Clair, Mich. 48079. Attention: James J. Sheehan, Assistant Traffic Manager. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, BSR Building, Suite 417, 316 East Morehead Street, Charlotte, N.C. 28202.

No. MC 116077 (Sub-No. 248 TA), filed September 19, 1968. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, ZIP 77023, Post Office Box 9527, Houston, Tex. 77011. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate, fertilizer compounds, fertilizer materials and blends thereof*, from Beaumont, Tex., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Mobil Oil Corp., Agricultural Chemicals Division (Mr. J. L. Tompkins, General Traffic Manager), 401 East Main Street, Richmond, Va. 23208. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

No. MC 124899 (Sub-No. 10 TA), filed September 19, 1968. Applicant: RAY BETHERS, Post Office Box 116, Kamas, Utah 84036. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from points in West Yellowstone, Mont.; Montrose and Dolores, Colo., to Salt Lake City, Clearfield, Ogden, Provo, and Kamas, Utah, for the account of Alpine Lumber Sales, and from Hamilton, Darby, and West Yellowstone, Mont.; North Fork, Paris, and Show Low, Ariz.; Afton, Wyo., to points in Utah for the account of Forest Products Sales, for 180 days. Supporting shippers: Alpine Lumber Sales, 3601 South State Street, Salt Lake City, Utah 84115; Forest Products Sales, 3140 South Main Street, Salt Lake City, Utah 84115. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 128052 (Sub-No. 2 TA), filed September 19, 1968. Applicant: OLIVEIRA TRUCKING COMPANY, INCORPORATED, 252 Elm Street, Blackstone, Mass. 01504. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, R.I. 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags on pallets, on vehicles equipped with mechanical loading and unloading devices from Woonsocket, R.I., and Blackstone, Mass., to points in Connecticut, Massachusetts, and Rhode Island, for 180 days. Supporting shipper: Hercules Cement Co., Division of American Cement Corp., 555 City Line Avenue, Bala-Cynwyd, Pa. 19004. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, R.I. 02903.

No. MC 129445 (Sub-No. 3 TA), filed September 19, 1968. Applicant: DIXIE TRANSPORT CO. OF TEXAS, Post Office Box 5447, 3840 Interstate 10 South, Beaumont, Tex. 77706. Applicant's representative. Archie L. Wilson (same address as above). Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Ammonium nitrate, fertilizer compounds, fertilizer materials and blends thereof*, from Beaumont, Tex., to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Mobil Oil Corp., Agricultural Chemicals Division (J. L. Tompkins, General Traffic Manager), 401 East Main Street, Richmond, Va. 23208. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, 8610 Federal Building, 515 Rusk, Houston, Tex. 77002.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-11850; Filed, Sept. 30, 1968; 8:48 a.m.]

[Notice 698]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 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 107403 (Sub-No. 755 TA), filed September 20, 1968. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank vehicles, from Camp Hill, Pa., to Elizabeth and Pennsville, N.J., for 180 days. Supporting shipper: Bay State Milling Co., Winona, Minn. (address reply to Post Office Box 562, Camp Hill, Pa. 17011). Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 683 TA), filed September 20, 1968. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, 50309, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible blood*, in bulk, in tank vehicles, from Cedar Rapids, Iowa, to Dakota City, Nebr., for 150 days. Supporting shipper: Wilson & Co., Inc., Post Office Box 488, Cedar Rapids, Iowa 52406. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 113325 (Sub-No. 127 TA), filed September 20, 1968. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ethylene gas*, in shipper-owned tank trailers, from the plantsite of U.S. Industries, at or near Tuscola, Ill., to the plantsite of the Monsanto Co. at St. Louis, Mo., for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 125168 (Sub-No. 11 TA), filed September 19, 1968. Applicant: OIL TANK LINES, INC., Box 190, Darby, Pa. 19023. Applicant's representative: Richard Davis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, for the account of Elk Refining Co.—Pennzoil United, Inc., between Falling Rock, W. Va.; Bradford, Pittsburgh, Reno. and Rouseville, Pa.; and Brainards, Camden, Kenvil, Parlin, Paulsboro, and Seawaren, N.J.; New York, N.Y.; Philadelphia and York Haven, Pa. (traffic destined for export), for 180 days. Supporting shipper: Pennzoil United, Inc., Drake Building, Oil City, Pa. 16301. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 128138 (Sub-No. 4 TA), filed September 20, 1968. Applicant: ATLANTIC-PACIFIC PILOT AND DRIVE EXCHANGE, INC., 655 Sutter Street, Suite No. 111, San Francisco, Calif. 94102. Applicant's representative: E. D. Helmer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in single driveaway service, by the use of casual drivers, between points in the United States, including Alaska and Hawaii, for 150 days. Supporting shipper: Islander Motorhome Inc., 802 East Washington, Santa Ana, Calif. 92701. 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 129664 (Sub-No. 2 TA) (Correction), filed September 9, 1968, published FEDERAL REGISTER, issue of September 17, 1968, and republished as corrected this issue. Applicant: COMET MESSENGER AND DELIVERY SERVICE, INC., 277-283 Clinton Avenue, Newark, N.J. 07108. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dental, optical, drug products, biological specimens and tests, film and allied photo equipment, and supplies*, in shipments 100 pounds or less moving from one consignor to one consignee, in specialized service; (1) between New York, N.Y., and points in Westchester, Rockland, Nassau, and Suffolk Counties on the one hand, and, on the other points in New Jersey and Philadelphia, Pa.; and (2) between Philadelphia, Pa., on the one hand, and, on the other points in New Jersey, for 150 days. NOTE: The purpose of this republication is to correct the territorial description in (1) above. Supporting shippers: There are approximately 27 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 133029 (Sub-No. 1 TA), filed September 20, 1968. Applicant: DOEPP CROCKETT, doing business as DOEPP CROCKETT—HAULING, Route 1, Box 92C, Dexter, N. Mex. 88230. Applicant's representative: Jerry R. Murphy, 708 La Veta Drive NE., Albuquerque, N. Mex. 87108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire*, from Pueblo, Colo., to points in New Mexico and Texas, for 150 days. Supporting shippers: Jack Shaw, Route 1, Dexter, N. Mex. 88230; James L. Freeland, Route 1, Dexter, N. Mex. 88230; Frank W. Winne & Son, Inc., 318 Cadiz, Dallas, Tex. 75207; International Harvester Sales & Service, Post Office Box 160, Roswell, N. Mex. 88201. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10515 Federal Building, U.S. Courthouse, Albuquerque, N. Mex. 87101.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Sub-No. 124 TA), filed September 20, 1968. Applicant: GREYHOUND LINES, INC., 10 South Riverside Plaza, Chicago, Ill. 60606. Applicant's representative: J.D. Kimmey, 210 East Ninth Street, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*

and their baggage, and express and newspapers in the same vehicle with passengers, between River Falls, Wis., and junction U.S. Highway 12 and Wisconsin Highway 35; from River Falls over Wisconsin Highway 35 to junction U.S. Highway 12, and return over same route, serving all intermediate points between junction U.S. Highway 12 and Wisconsin 65 and junction Wisconsin Highways 65 and 35; from junction U.S. Highway 12 and Wisconsin Highway 65 over Wisconsin Highway 65 to its junction with Wisconsin Highway 35 and return over same route, serving all intermediate points, for 180 days. Supported by: Wisconsin State University, River Falls, Wis.; Industrial and Civic Development Corp., River Falls, Wis.; River Falls State Bank, River Falls, Wis.; John W. Davison, attorney at law, River Falls, Wis.; Mrs. Helen W. Phillips, Citizen, River Falls, Wis. Send protests to: Billy R. Reid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-11851; Filed, Sept. 30, 1968; 8:46 a.m.]

[Notice 699]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 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. 700 TA), filed September 23, 1968. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE (175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Jack W. Vogt, 4501 Pacheco Boulevard, Post Office Box 950, Martinez, Calif. 94553. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fatty acid ester of vegetable, fish or animal oil*, in bulk, in tank vehicles, from Santa Fe Springs, Calif., to Baton Rouge, La., for 150 days. Supporting shipper: Emery Industries, Inc., Western Operations Fatty Acid Division, Post Office Box 54358, Terminal Annex, Los Angeles, Calif. 90054. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 106580 (Sub-No. 2 TA), filed September 23, 1968. Applicant: M. F. BUTLER JR. AND M. F. BUTLER, SR., doing business as OSWEGO LIME DELIVERY COMPANY, Post Office Box 174, Lake Oswego, Oreg. 97034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone*, in bulk or in sacks, from Lake Oswego, Oreg., to points in Mason, Thurston, Pierce, Lewis, King, and Klickitat Counties, Wash., for 180 days. Supporting shipper: Oregon Portland Cement Co., 111 Southeast Madison, Portland, Oreg. 97214. Send protests to: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 107107 (Sub-No. 395 TA), filed September 20, 1968. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Post Office Box 458, Allapattah Station, Miami, Fla. 33142. Applicant's representative: Ford W. Sewell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Impregnated broadgoods* (adhesive prepregnated cloth), in vehicles equipped with mechanical refrigeration, from Dallas, Tex., to Atlanta, Ga.; Hagerstown, Md.; Nashville, Tenn.; and points in Florida, for 180 days. NOTE: Applicant will receive the shipments involved from Frozen Food Express (MC 108207) at Dallas, Tex. Supporting Shippers: Whittaker Corp., Narmco Materials Division, 600 Victoria Street, Costa Mesa, Calif. 92627; U.S. Polymeric, Inc., 700 East Dyer Road, Santa Ana, Calif. 92702. Send protests to: District Supervisor, Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 109689 (Sub-No. 199 TA), filed September 23, 1968. Applicant: W. S. HATCH CO., 643 South 800 West Street (Post Office Box 1825, Salt Lake City, Utah 84110), Woods Cross, Utah 84087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid*, in bulk, from Salt Lake City or Murray, Utah, to Nyssa, Oreg., for 180 days. Supporting shipper: Thatcher Chemical Co., Post Office Box 6037, Salt Lake City, Utah 84106. Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 118459 (Sub-No. 1 TA), filed September 23, 1968. Applicant: SIGNAL DELIVERY SERVICE, INC., 782 Industrial Drive, Elmhurst, Ill. 60126. Applicant's representative: J. A. Kundtz, 1050 Union Commerce Building, Cleveland, Ohio 44115. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soaps, cosmetics, premiums, and related advertising materials*, limited to packages and parcels not exceeding 200 pounds per shipment from one consignor to one consignee, from Baltimore, Md., to points in Montgomery, Frederick, Carroll, Baltimore, Harford, Cecil, Howard, Anne Arundel, Prince Georges, Charles, Calvert, and St. Marys Counties, Md., for 180 days. Supporting shipper: Charles Hertsenberg, Avon Products, Inc., Newark, Del. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 123639 (Sub-No. 108 TA), filed September 20, 1968. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: E. R. Driskell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C, appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Arkansas City, Kans., and Wichita, Kans., to points in Wisconsin, for 180 days. Supporting shipper: Maurer-Neuer, Inc., Arkansas City, Kans. 67005. Send protests to: District Supervisor Charles W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 127304 (Sub-No. 2 TA), filed September 23, 1968. Applicant: CLEAR WATER TRUCK COMPANY, INC., 410 Fourth National Bank Building, Wichita, Kans. 67202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Wichita, Kans., and York, Nebr., to points in Tennessee, Arkansas, Alabama, Georgia, North Carolina, South Carolina, Florida, Iowa, Missouri, Illinois, Nebraska, Indiana, Michigan, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, New York, Connecticut, Massachusetts, Rhode Island, and the District of Columbia, for 180 days. Supporting shipper: Sunflower Packing Co., 1410 East 21st, Post Office Box 8183, Munger Station, Wichita, Kans. 67208. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 906 Schweiter Building, Wichita, Kans. 67202.

No. MC 128909 (Sub-No. 6 TA), filed September 23, 1968. Applicant: COMMODORE CONTRACT CARRIERS, INC., 2410 Dodge Street, Omaha, Nebr. 68131. Applicant's representative:

Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, between Falls City, Nebr., on the one hand, and, on the other, points in Michigan. Between Red Bay, Ala., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, for 150 days. Supporting shipper: The Commodore Corp., Omaha, Nebr. Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 133045 (Sub-No. 1 TA), filed September 23, 1968. Applicant: E. N. CURTIS AND C. C. CURTIS, doing business as CURTIS BROTHER TRUCKING COMPANY, Route 6, Box 221 E, Falmouth, Va. 22401. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden box spring frames*, from Massaponax, Va., to points in New York, Pennsylvania, Maryland, District of Columbia, Delaware, New Jersey, Virginia, West Virginia, North Carolina, and South Carolina, for 180 days. Supporting shipper: Clayborne Beck and Sons, 711 Spruce Street, Bedford, Va. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1220, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 133164 (Sub-No. 1 TA), filed September 24, 1968. Applicant: CENTRAL TRANSPORTATION CO., 265 Church Street, New Haven, Conn. 06510. Applicant's representative: William M. Mack, 205 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone, sand, gravel, bituminous concrete, and mixed aggregates* in dump vehicles, between Danbury and Newtown, Conn., on the one hand, and points in Westchester, Putnam, and Dutchess Counties, N.Y., on the other hand, with return movement under continuing contract with New Haven Trap Rock Division of Ashland Oil & Refining Co., for 150 days. Supporting shipper: New Haven Trap Rock, Division of Ashland Oil & Refining Co., 265 Church Street, New Haven, Conn. 06509. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 133177 TA, filed September 23, 1968. Applicant: WILLIAM RUFUS LONG, doing business as LONG's BODY SHOP, East Washington Street Extension, Rockingham, N.C. 28379. Applicant's representative: Norman T. Gibson, 108 South Hancock Street, Rockingham, N.C. 28379. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes or housetrailers*, from points in North Carolina to points in South Carolina, Virginia, Georgia, and Tennessee, for 180 days. Supporting shippers: (1) Conor Corp., Conner Mobile Homes, Post Office Box 520, Newport, N.C. 28570; (2) George's Mobile Homes of Rockingham, Inc., 1022 Broad Avenue, Rockingham, N.C. 28379; (3) Kampers Kourtz, Rockingham, N.C. 28379; (4) L. L. McInnis Realty Co., Post Office Box 1020, Rockingham, N.C. 28379; (5) Red Springs Motors, Inc., Red Springs, N.C. 28377; (6) Roy's Trailer Sales, Post Office Box 116, Biscoe, N.C. 27209; and (7) Taylor's Mobile Home, Troy, N.C. 27271. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, N.C. 28202.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-11879; Filed, Sept. 30, 1968; 8:45 a.m.]

FEDERAL REGISTER

VOLUME 33 • NUMBER 191

Tuesday, October 1, 1968 • Washington, D.C.

PART II

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

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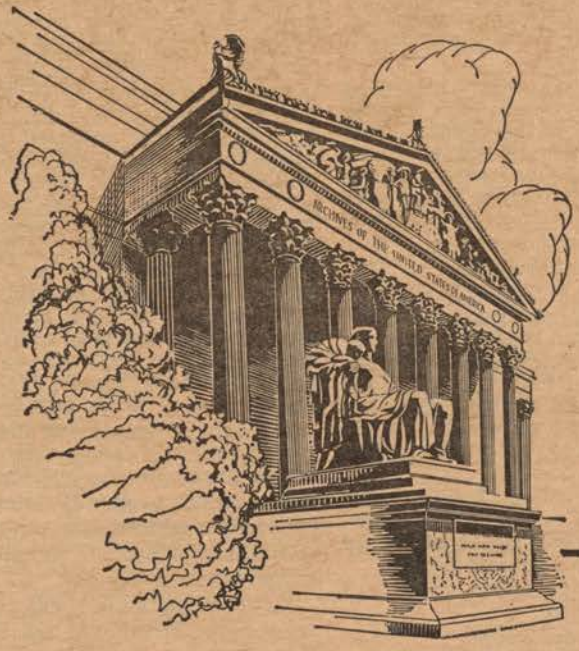
Processor Wheat Marketing Certificate Regulations

Republication



Title 7—AGRICULTURE

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

SUBCHAPTER C—SPECIAL PROGRAMS

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Republication of Regulations

The following republication of Part 777 of Title 7 of the Code of Federal Regulations is issued to include all amendments to date (31 F.R. 13502; 32 F.R. 7836, 8675, 10552, 10834, 12551, 14363; 33 F.R. 2707, 5532, 9331, 10386, and 11113). This republication of Part 777 contains minor editorial corrections, but does not include any substantive changes other than to amend the conversion factor for rolled wheat from 1.800 to 1.860 which represents the factor applicable to the one rolled wheat processing plant reporting certificate liability on the conversion basis. The new factor 1.860 shall be effective as of the first reporting period beginning on or after the date that this republication appears in the FEDERAL REGISTER.

Sec.

AUTHORITY: The provisions of this Part 777 issued under secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178, and 79 Stat. 1202; 7 U.S.C. 1379 a–j.

§ 777.1 General.

The Agricultural Adjustment Act of 1938, as amended, provides that during any marketing year for which a marketing allocation program is in effect, all persons engaged in the processing of wheat into food products shall, with certain exceptions, prior to marketing any such food products or removing such food products for sale or consumption, acquire domestic wheat marketing certificates equivalent to the number of bushels of wheat contained in such products. The act also provides that upon the giving of a bond or other undertaking satisfactory to the Secretary of Agriculture to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulation as he may prescribe, any person required to have marketing certificates in order to market the food product may be permitted to market any such product without having acquired marketing certificates in advance. The regulations in this part contain the terms and conditions for implementing these and related requirements of law.

§ 777.2 Administration.

The regulations in this part will be administered by the Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS") under the general supervision of the Administrator, ASCS. The Commodity Credit Corporation (hereinafter referred to as "CCC") will assist in carrying out the regulations through the sale and purchase of domestic certificates. Information pertaining to the regulations in this part may be obtained from the Director, Commodity Operations Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 777.3 Definitions.

As used in the regulations in this part and in all instructions, forms, and documents pertaining hereto, the words and phrases defined in this section shall have the meaning assigned to them as follows, unless the context or subject matter otherwise requires:

(a) "Wheat" means wheat (regardless of whether produced in the United States), as defined in the Official Grain Standards of the United States or any wheat contained in any mixed grain or in any other mixture, which if not contained in such mixture would qualify as wheat under such standards.

(b) "Food product" means:

(1) Any product processed in whole or in part from wheat, irrespective of whether such product is actually used for human consumption, except such products as are defined herein as non-food products. Such food products shall, except as provided in paragraph (c) (3) of this section, include but not be limited to the following:

(i) Flour, as defined herein. (See §§ 777.18 and 777.19 for special provisions on flour second clears which are not used for human consumption.)

(ii) Wheat which is boiled, steeped, or commercially sprouted.

(iii) Any breakfast cereal.

(iv) Any beverage.

(v) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or such other similarly processed wheat as may be designated by the Administrator, except to the extent that the total product of the wheat processed is used in or marketed as animal feed or other nonfood product. To qualify as ground wheat not more than 70 percent of such total product shall pass through a No. 8 sieve, and not more than 30 percent of such total product shall pass through a No. 20 sieve.

(c) "Non-food product" means:

(1) Any of the following products when produced in a single plant from wheat, provided (i) none of the products obtained from the wheat used in the processing of such product is marketed, or removed from the plant for sale or consumption, as a food product, (ii) the product is not manufactured from only a part of the total flour streams obtained in the processing of patent flours, and (iii) the product is labeled or otherwise identified as a non-food product.

(*a*) Animal feed;

(*b*) Pet food and poultry feed;

(*c*) Adhesives and other industrial products unsuitable for human consumption;

(*d*) Any product marketed or removed from the plant for use as a component of the products listed in subdivisions (*a*), (*b*), or (*c*) of this subparagraph if such product is unsuitable for marketing as a food product because of ingredients added or other action taken during the total course of processing.

(2) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat designated by the Administrator to the extent that the total product of the wheat processed is used in or marketed as animal feed or other non-food product specified in this paragraph.

(3) Any product which prior to marketing or removal for sale or consumption (whichever occurs first) is determined to be unfit for human consumption by the Food and Drug Administration or any agency of a State or local government, has not been rendered unfit for human consumption by deliberate action on the part of the processor and is destroyed or disposed of for animal feed or other non-food use; or any product processed from wheat determined to be unfit for human consumption by any such agency, if the product is destroyed or disposed of for animal feed or other non-food use.

(4) Any product being manufactured from wheat as a food product which becomes unsuitable for marketing as the food product originally intended to be produced provided the conditions prescribed in subdivisions (i) and (ii) of this subparagraph are met.

(i) The loss is the result of (*a*) power failure, (*b*) strike, (*c*) fire, (*d*) Act of God, or (*e*) any unforseen circumstance which, upon application of the processor, is specifically approved in writing by the Director.

(ii) Such product and all other products obtained from the wheat are destroyed or prior to marketing or removal from the plant (whichever occurs first) are rendered unsuitable for marketing as a food product and are used in or marketed as animal feed or other nonfood products specified in this paragraph.

This subparagraph (4) does not, unless the loss is the result of circumstances described in subdivision (i) of this subparagraph, cover undercooked or overcooked products; screenings or other residue from cleaning the wheat; dust; fines; floor sweepings or spillage collected in the processing plant; or any loss resulting from choke-up, starting up or shutting down processing operations.

(5) Such other products processed from wheat as the Administrator may determine to be non-food products.

(d) "Flour" means all flour (including flour clears) processed in whole or in part from wheat and shall include whole wheat or graham flour, Durum flour, malted wheat flour, stone ground flour, self-rising flour, semolina, farina and bulgur.

(e) "Person" means an individual, corporation, partnership, association, State, State agency, municipality or any other legal entity.

(f) "Food processor" means any person who processes wheat into a food product, irrespective of whether or not his principal business activity is that of a food processor. An individual who processes wheat in his own home for family use in his home is not a food processor.

(g) A "plant" or "processing plant" means collectively all processing units under one roof or located adjacent to each other except that (1) any such unit or units producing animal feed or other nonfood product exclusively shall be considered a separate plant, (2) any such unit or units processing durum wheat exclusively may be considered a separate plant, (3) any such unit in which beverage distilled spirits are placed in barrels for aging shall be considered a separate plant, (4) any such unit in which flour second clears are used in the manufacture of products which are not used for human consumption shall be considered a separate plant, and (5) any such unit in which cereal products are produced may be considered a separate plant. (6) Any such unit in which further processing of the food product first derived from the wheat occurs shall not be considered a part of the plant (for example, a bakery located in the same building or adjacent to a processing plant). The blending of a food product with another product or any other ingredient is not considered further processing for the purpose of this subparagraph (6). In the case of cereal processors where a food product is processed in a continuous operation from wheat which has been pearled or otherwise semiprocessed in the same plant location, all such processing units collectively shall be considered a plant.

(h) "United States" means all the States in the United States, the District of Columbia and Puerto Rico, including any Free Trade zones located therein.

(i) "Bushel" means 60 pounds of wheat, exclusive of dockage as defined in the Official Grain Standards of the United States or 60 pounds of wheat which is contained in mixed grain or in any mixture.

(j) "Domestic certificate" or "certificate" means a Form CCC–145, Wheat Marketing Certificate (domestic) issued by CCC, or a certificate credit established by CCC in its accounts in favor of a food processor for certificates purchased pursuant to these regulations.

(k) "Marketing year" means the twelve months beginning July 1, and ending June 30.

(l) "Director" means the Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, or his designee. Any delegations of authority made by the Director, Procurement and Sales Division, ASCS, under these regulations shall continue in effect until superseded. Any delegations of authority made under these regulations to the Director, Procurement and Sales Division, ASCS, shall continue in effect as delegations to the Director, Commodity Operations Division until superseded.

(m) "Commodity office" means the Kansas City ASCS Commodity Office, 8930 Ward Parkway, P.O. Box 205, Kansas City, Missouri 64141.

(n) [Reserved]

(o) "Administrator" means the Administrator, ASCS, or his designee.

(p) "GR-262" means "Announcement GR–262, Terms and Conditions of Contracts for the Acquisition of CCC wheat for Export as Wheat Flour", under which wheat is acquired from CCC for exportation in the form of flour pursuant to a barter transaction, or Export Credit Announcement GSM–1, or any other program under which CCC offers wheat at competitive world prices for export in the form of flour.

(q) "GR–346" means the regulations with respect to the "CCC Flour Export Program—Cash Payment, GR–346" (25 F.R. 5816, and any amendments thereto) under which export payments may be made on flour exports at announced payment rates.

(r) "State or State Agency" means any of the fifty states in the United States, the District of Columbia and Puerto Rico, and any agency thereof.

(s) "Institution" means an organization operating primarily as a charitable or religious institution which provides assistance on a charitable or welfare basis to needy persons and which, for the purpose of these regulations, has been approved in writing by the Administrator as an institution to which the food processor may deliver food products for distribution by donation to needy persons without acquiring certificates, or if the institution is a food processor, which may remove food products from the plant for donation to needy persons without acquiring certificates. Any institution which wishes to apply for such approval shall submit a request in writing to the Administrator specifying its name and address, and describing its activities, including the purpose for which the food products will be used. Such institution must be recognized by the Internal Revenue Service as an institution to which contributions are deductible as charitable contributions for Federal income tax purposes under section 170 of the Internal Revenue Code (26 U.S.C. 170) as evidenced by the listing of such organization in the U.S. Treasury Department's Internal Revenue Service Publication No. 78, "Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1954," as revised and supplemented.

(t) [Reserved]

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

(v) "Industrial user" means any person who uses flour second clears in the United States in the production of any products not used for human consumption.

(w) "Nonqualifying clears" means clears which do not comply with the

requirements of paragraph (u) of this section.

(x) "Shrinkage" as used herein, means that loss in weight resulting from normal handling of wheat, including the loss in moisture content, which occurs after the wheat is weighed and unloaded into the plant (including the servicing elevator(s)) and until it is removed for milling (i.e. prior to cleaning and tempering) or other disposition. Shrinkage shall not include the loss of weight resulting from artificial drying, screening, or cleaning, nor shall it include any loss of weight to the extent it is offset by any residue which is recovered in the form of sweepings, bin cleanout, or in similar operations.

(y) "Federal Reserve Bank" or "FRB" means the Federal Reserve Bank or Branch which serves the area in which the processor's remitting office is located or such other Federal Reserve Bank or Branch as is designated by the Kansas City Commodity Office. (See listing of banks in Appendix I.)

§ 777.4 Delegation of authority.

Authority has been delegated to the Administrator to promulgate amendments and revisions to the regulations in this part. (See 32 F.R. 7836, May 30, 1967.)

§ 777.5 Applicability of certificate requirements.

(a) *General.* Any food processor processing wheat into food products, as defined herein, in the United States on or after 12:01 a.m. local time, July 1, 1964, regardless of whether he has legal title to the wheat or the food products processed therefrom, shall for the wheat so processed acquire and surrender certificates to CCC at the time and in the manner hereinafter specified in these regulations. The cost of domestic certificates for the marketing year beginning July 1, 1964, shall be 70 cents per bushel. The cost of domestic certificates shall be 75 cents a bushel during the marketing years beginning July 1, 1965, through the marketing year beginning July 1, 1968.

(b) *Exemptions.* Notwithstanding the foregoing, certificates shall not be required in the circumstances specified in the following subparagraphs:

(1) *Farm-use exemption.* Certificates shall not be required for wheat which is processed into a food product for use on the farm where grown and not for sale or other disposition. To support such exemption, the processor shall, at the time of delivery of the food product, obtain a certificate from the producer, or his authorized agent, on Form CCC–148, Food Product Farm Use Certificate, to cover the quantity of food product delivered. The food processor shall exercise care to ascertain that the exemption is not claimed for a quantity of food products in excess of that actually required for use on the farm where produced. The food processor may without acquiring certificates, deliver to the person from whom he obtained the certification on Form CCC–148, a quantity of the food product not in excess of the quantity of the product processed from a quantity of wheat equivalent to the wheat received by the processor from such person less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received.

(2) *Wheat processed in bond.* Certificates shall not be required for wheat produced outside the United States which moves into the United States under customs bond, which is processed into food products in a bonded manufacturing warehouse, and which is exported without having been withdrawn from bond for consumption in the United States. To obtain such exemption, the food processor shall obtain authenticated copies of customs Form 7521—a copy evidencing the entry of wheat into a bonded manufacturing warehouse and a copy evidencing the withdrawal from customs bond for export of the food product processed therefrom.

(3) *Processing by educational institutions or other persons for purposes of student training, experimentation, research, analysis or testing.* An educational institution or other person engaged in the processing of wheat at any installation primarily for the purpose of student training, experimentation, research, analysis or testing shall not be required to acquire and surrender certificates on any wheat processed at the installation into a food product for any such purpose if the food product is not marketed or removed for sale or consumption. Food processing reports need not be submitted nor records maintained with respect to wheat exempt under this subparagraph or food products processed therefrom.

(4) *Wheat produced by and processed for use by a State or State agency.* Certificates shall not be required for wheat produced by a State or agency thereof and processed beginning July 1, 1964, for use by the State or any agency thereof. To support such exemption, the processor shall at the time of delivery of the food product or at such other time as may be approved in writing by the Director, obtain a certification from an authorized official of the State or State agency on Form CCC–148–1, to cover the quantity of food product delivered. The food processor may, without acquiring certificates, deliver to the State or agency thereof from which he obtained the certification on Form CCC–148–1 a quantity of the food product processed from a quantity of wheat equivalent to the wheat received by the processor from the State or agency thereof less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received. Any State or State agency which processes exclusively wheat produced by such State or State agency solely for its own use is not required to submit food processing reports under § 777.12.

(5) *Wheat processed for donation.* Certificates shall not be required for wheat processed beginning July 1, 1964, into a food product for donation to needy persons under a welfare or charitable program operated by an approved institution (see § 777.3(s)). If the institution is not the food processor, to support such exemption, the food processor shall, at the time of delivery of the food product, or such other time as may be approved in writing by the Director, obtain from the institution a certification on Form CCC–148–2 to cover the quantity of food product delivered for donation. The food product upon which the claim for exemption is based shall not be disposed of by the institution other than for donation to needy persons. The provisions of this subparagraph do not apply to purchases by CCC for donation.

(6) *Wheat processed for noncommercial uses.* Certificates shall not be required for wheat processed for noncommercial uses as determined by the Administrator and specified in this paragraph. Any food processor who wishes to petition the Administrator to establish in the regulations in this part an exemption for any such use shall submit to the Administrator, the name and detailed description of the food product, the use which is to be made of the food product, the name and address of the person who will make such use, and any other information deemed relevant by the food processor and as may be required by the Administrator. The exemption shall apply to wheat used in the manufacture of food products for the following uses:

(i) *Wheat processed for use by the producer or person to whom he has donated the food product.* Marketing certificates shall not be required for wheat processed beginning July 1, 1964, into a food product for use by either the producer or a person to whom he has donated the food product outside the farm where the wheat was grown. To support the exemption provided for in this subparagraph (6)(i), the processor shall, at the time of delivery of the food product or, at such other time as may be approved in writing by the Director, obtain a certification on Form CCC–148, Food Product Farm Use Certificate, covering the quantity of food product delivered and describing the use to be made of the food product.

(ii) *Wheat processed by a State or State agency for use by a State or State agency or another agency of that State.* Marketing certificates shall not be required for wheat processed beginning July 1, 1964, into a food product by a State or State agency for purposes of training and rehabilitation. Such food product must be used by the State agency processing such wheat or if the food product is removed, by another agency of that State and must not be marketed by any other person. The State agency processing the wheat must maintain complete records of the quantity of wheat processed and of the disposition of the food product processed, as required by § 777.15. Any State or State agency which processes wheat for use exclusively by such State or State agency or another agency of such State shall not be required to submit food processing reports under § 777.12.

§ 777.6 Registration of processors.

(a) *Time of registration.* Any person who processes wheat, either into a food product or nonfood product (except a person who processes wheat in his home solely for family use in his home and a person who processes wheat on a farm solely for use on such farm), shall register with the Director by making the report required by paragraph (b) of this section by May 30, 1964, or such later date as may be approved by the Director in writing. Any such person who begins such processing operations subsequent to May 30, 1964, and who is not registered, shall register not later than the date he commences operations or such later date as may be approved in writing by the Director for good cause shown. Any person who has registered with the Director and who modifies his operations, such as by opening or closing plants, or beginning to process food products, subsequent to the date of his registration, shall give notice of such change to the Director not later than the date he modifies his operations.

(b) *Method of registration.* A person who is required to register (hereinafter called "registrant") shall submit to the Director a report on Form CCC–146, Wheat Processor Registration and Report Form. Any person failing to submit such report is subject to criminal penalties. Blank forms may be obtained from the Director or from the Commodity Office listed in paragraph (m) of § 777.3. A separate form in an original and three copies shall be prepared for each processing plant. The original and two copies, shall be submitted to the Director and one copy shall be retained by the registrant. The form shall include the following information: (1) Name of the registrant, (2) Central Office address, (3) plant address, (4) list of food products and non-food products processed at each plant, (5) request for any non-food product designation which the registrant may wish to make, (6) such other information on the form as may be required by the Director.

(c) *Notification of registration by Director.* The Director will assign a primary registration number to the person and return one copy of the Form CCC–146 to him. If he operates more than one plant, he will be assigned a sub-number for each plant.

§ 777.7 Refunds or credits for flour exports.

(a) *General.* In order to expand international trade in wheat and wheat flour and promote equitable and stable prices therefor, the Commodity Credit Corporation shall upon the exportation from the United States of any wheat or wheat flour, make a refund to the exporter or allow him a credit against the amount payable by him for marketing certificates, in such amount as is determined will make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. Refunds shall be made as provided in GR–346. If the amount of the export payment under GR–346 exceeds the cost of the certificates for the flour, a part of the export payment equal to the cost of such certificates shall constitute the refund. If the amount of the export payment does not exceed the cost of the certificates, the entire amount of the payment shall constitute the refund.

(b) *Exports under GR–262.* In the case of wheat acquired from CCC under GR–262 at competitive world prices for export in the form of flour, the exporter will be allowed a credit in the amount of the full cost of certificates required to be acquired and surrendered to CCC for the flour exported in fulfillment of the exporter's obligations under GR—262, or certificates for such amount will be issued to the exporter. When wheat is acquired from CCC under GR–262, CCC will establish a credit or issue certificates in such amount in the exporter's favor which may be transferred to the processor from whom the flour to be exported is acquired. If the exporter does not make exportation as required under GR–262, he shall pay to CCC promptly on demand the amount of the credit or the face value of the certificates applicable to the flour not so exported, together with interest at the rate of 6 percent per annum from the date such credit was established or certificates issued.

§ 777.8 Penalties.

(a) *Violation of marketing restrictions—forfeitures.* Any person who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of these regulations with regard to the acquisition of certificates prior to marketing any such food product or removing such food product for sale or consumption shall be subject to section 379i(a) of the Agricultural Adjustment Act of 1938 which provides for the forfeiture to the United States by such person of a sum equal to two times the face value of the certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) *Violation of marketing restrictions; failure to make reports or maintain records—criminal penalties.* Any person, except a producer in his capacity as a producer, who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of these regulations governing the acquisition, disposition, or handling of certificates or who knowingly fails to make any report or keep any record as required by these regulations shall be subject to the provisions of section 379i (b) of the Agricultural Adjustment Act of 1938 which state that such person shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) *Fraudulent use of marketing certificates.* Any person who falsely makes, issues, alters, forges or counterfeits any certificate, or with fraudulent intent possesses, transfers, or uses such falsely made, issued, altered, forged or counterfeited certificate, shall be subject to the provisions of section 379i(c) of the Agricultural Adjustment Act of 1938 which state that such person shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than ten thousand dollars or imprisonment of not more than ten years, or both.

§ 777.9 Semi-processed wheat.

Any food processor who processes wheat into cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat as may be designated in § 777.3 (b)(1)(v) shall not market or remove such processed wheat for sale or consumption without acquiring certificates and surrendering certificates to CCC as provided in these regulations, unless the total product of the wheat processed is used in or marketed as a non-food product. Any person who acquires and further processes cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat into a food product (including by mixing with a food product or packaging for marketing as a food product) shall be considered a food processor except as otherwise provided in § 777.3(f). Such person shall acquire and surrender certificates and make reports as required by the regulations of this part on the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat used in the processing of the food product, unless prior to marketing the food product, or removing it for sale or consumption, he has obtained a certification from the person who produced the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat that he has or will acquire and surrender certificates as required by these regulations. The person processing the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat into a food product shall maintain records of the quantities thereof processed into food products as required by § 777.15 and shall retain any certification obtained by him under the foregoing provisions of this section for a period of three years.

§ 777.10 Wheat Marketing Certificate (Domestic).

(a) *Description.* Wheat Marketing Certificates (Domestic), herein called "domestic certificates" or "certificates", shall be represented by Form CCC–145,

Wheat Marketing Certificate (Domestic) issued by CCC, or a certificate credit established by CCC in favor of a food processor for certificates purchased from CCC pursuant to these regulations. Form CCC–145 is a serially numbered form entitled "Wheat Marketing Certificate." A Form CCC–145 domestic certificate will be identified as "domestic", will show date of issuance, bushel quantity, face value, name and address of person to whom issued, and the marketing year to which it applies, and will bear the signature of a representative of CCC authorized to sign certificates.

(b) *Sale by CCC.* CCC will sell certificates to food processors and others who offer to purchase certificates from CCC and who pay to CCC the face value of the certificates plus such interest as may be required by the regulations of this part. Offers to purchase certificates for wheat processed in a specific processing report period may be made by submission of a processing report as provided in § 777.12, with a remittance payable to Commodity Credit Corporation for the cost of the certificates, or by submission of the remittance with advice that it is for purchase of wheat marketing certificates and identification of the processor number of the plant and processing period. Offers to purchase certificates not applicable to a specific processing period shall be made by submission of a remittance with advice that it is for purchase of CCC–145, Wheat Marketing Certificates, and the name and address of the payee to be shown on the certificates. All offers to purchase certificates and related remittances shall be made to the FRB unless the Commodity Office has requested that the remittances be sent to that office. Payment for certificates shall be deemed to have been made when payment is received at the FRB or the Commodity Office, except that if payment is by mail, payment shall be deemed to have been made on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, the Commodity Office will establish the date of mailing from other evidence available to it including such evidence as may be supplied by the processor. If the due date for payment without interest falls on a Saturday, Sunday, or holiday, and payment is received or mailed on the next succeeding workday, it shall be deemed to have been made on the due date. Envelopes containing payments shall, on the face show the statement "CCC Wheat Marketing Certificate Reports". Form CCC–145 will be issued for certificates sold by CCC, except that when certificates are purchased for wheat processed in a specific processing report period, CCC will establish a credit in favor of the food processor for the amount of the certificates purchased in lieu of issuing Form CCC–145.

(c) *Negotiability.* Form CCC–145 certificates may be transferred to any person by endorsement and delivery. A person acquiring certificates by transfer may surrender them to CCC to cover wheat processed into food products or may sell them to CCC.

(d) *Surrender of certificates to CCC.* Food processors shall discharge their obligation to surrender certificates to CCC by endorsing Form CCC–145 certificates and delivering them to CCC at the Commodity Office or by making payment to CCC for certificates required for wheat processed into food products in a specific processing report period. Surrender of certificates to CCC shall be deemed to have been made at the time when payment is made for certificates purchased or at the time delivery of Form CCC–145 certificates is made at the Commodity Office. If Form CCC–145 certificates are received in the Commodity Office by mail the delivery shall be deemed to have been made on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, it shall determine such date from other evidence available to it, including such evidence as may be supplied by the processor. Certificates will be deemed to be canceled by CCC upon their surrender to CCC.

(e) *Balance certificates.* If Form CCC–145 certificates delivered to the Commodity Office have a face value in excess of the value of certificates required to be surrendered, CCC will issue Form CCC–145 certificates to the food processor for the unused balance.

(f) *Purchase by CCC.* Any valid Form CCC–145 certificates legally held by any person will be purchased by CCC at face value if presented for purchase to the Commodity Office.

§ 777.11 Time and manner of acquiring and surrendering certificates.

(a) *General.* Food processors shall acquire certificates and surrender certificates to CCC as provided in paragraphs (b) and (c) of this section and in the manner specified in § 777.10. The number of certificates acquired by the food processor and surrendered to CCC shall be equivalent to the number of bushels of wheat used in processing the food products for which certificates must be acquired and surrendered. Such quantity of wheat shall be determined and reported to CCC as provided in §§ 777.12 to 777.14 on the basis of the weight of wheat used in processing the food products or by application of conversion factors to the weight of food products obtained in the processing operation.

(b) *Undertaking to secure purchase and payment.* Any food processor may market a food product or remove a food product for sale or consumption without first having acquired and surrendered certificates if he enters into the undertaking with CCC provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Commodity Office a properly executed "Food Processor Certificate Undertaking," Form CCC–147. The undertaking shall apply to wheat processed into food products in each plant specified in Form CCC–147 beginning with the first day of the processing report period as determined under § 777.12 in which the undertaking was received by the Commodity Office, except that the undertaking shall apply to wheat processed beginning July 1, 1964, if the undertaking is received in the Commodity Office on or before August 25, 1964. If an undertaking has been filed, it shall remain in effect unless the food processor breaches the undertaking in which event it shall terminate at such time as provided in subparagraph (4) of this paragraph, or unless the food processor notifies CCC that he wishes to withdraw the undertaking in which event it shall expire at such time as may be determined by CCC. By filing Form CCC–147 with the Commodity Office, the food processor agrees, in consideration of the right to market food products and to remove food products for sale or consumption without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from CCC and surrender the certificates for the wheat processed into food products, as required under the regulations of this part on or before the 45th calendar day after the close of the processing report period during which the wheat was processed or such later date as may be approved by the Administrator for good cause shown by the food processor.

(2) If certificates are acquired and surrendered to CCC later than the 15th calendar day after the close of the processing report period during which the wheat was processed, the cost of the certificates acquired from CCC shall be the face value of the certificates plus interest at the rate of six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates.

(3) If requested by the Administrator, the food processor will furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to market food products and to remove food products for sale or consumption without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to market food products and to remove food products for sale or consumption without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the reporting period with respect to which the breach occurred.

(c) *Purchase of certificates in absence of undertaking.* (1) Except as provided in paragraph (b) of this section, the food processor must acquire certificates and surrender such certificates to CCC on or before the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown, for all food products sold

and removed for sale or consumption from the processing plant, covered by the processing report, during the processing report period. The cost of certificates acquired from CCC shall be as provided in subparagraphs (2), (3), and (4) of this paragraph.

(2) The food processor may acquire certificates from CCC at face value to the extent that he acquires and surrenders certificates not later than the first day of each processing report period (as determined under § 777.12) to cover the estimated quantity of wheat to be used in the processing of food products during the first half of the report period. In addition, the food processor may acquire certificates from CCC at face value to the extent he acquires and surrenders certificates not later than the first day of the second half of each processing report period to cover the estimated quantity of wheat to be used in the processing of food products during the second half of the report period. If the quantity of wheat estimated to be used in the processing of food products during the processing report period was underestimated, additional certificates may be acquired from CCC at face value if acquired and surrendered to CCC on or before the last day of the report period.

(3) If the certificates acquired and surrendered as provided in subparagraph (2) of this paragraph are equal to 90 percent or more of the certificates required to cover the wheat used in processing food products during the report period, any additional certificates may be acquired from CCC at face value if acquired and surrendered to CCC not later than the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown. The cost of any certificates purchased from CCC after such date to cover wheat used in processing the food products during the report period shall be the face value thereof plus interest at six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates.

(4) If the certificates acquired and surrendered to CCC by the food processor as provided in subparagraph (2) of this paragraph are less than 90 percent of the certificates required to cover the wheat used in processing food products during the processing report period or if the food processor does not acquire and surrender certificates as provided in subparagraph (2) of this paragraph, the cost of any certificates purchased from CCC subsequent to the last day of the processing report period to cover the wheat used in processing food products during the processing report period will be the face value of the certificates plus interest at six percent per annum from the first day of the report period until the date of surrender of the certificates.

(d) *Wheat acquired from CCC for export as flour under GR–262.* The processor of any food products exported in fulfillment of an exporter's obligation to export under GR–262, shall surrender certificates to CCC on such food products as provided in the foregoing paragraphs of this section. A credit will be allowed or certificates issued to the exporter in the manner provided in § 777.7 for the full cost of certificates required to be acquired and surrendered to CCC on such flour.

(e) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits which he has manufactured from wheat, the beverage distilled spirits are deemed to be removed from the processing plant for consumption for the purpose of these regulations when the spirits are placed in barrels for aging. Certificates shall be acquired and surrendered as provided in paragraph (c) of this section in an amount equivalent to the number of bushels of wheat used on and after July 1, 1964, in processing the beverage distilled spirits, except that a food processor may age beverage distilled spirits manufactured by him from wheat without first having acquired and surrendered certificates if he enters into the undertaking with Commodity Credit Corporation provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Commodity Office a properly executed "Food Processor Certificate Undertaking" Form CCC–147. The undertaking shall apply to wheat processed into beverage distilled spirits in each plant specified in such form beginning with the first day of the processing report period specified in the undertaking. By filing Form CCC–147 with the Commodity Office, the food processor agrees in consideration of the right to age beverage distilled spirits manufactured by him from wheat without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from Commodity Credit Corporation and surrender the certificates for the wheat processed into beverage distilled spirits and placed in a barrel for aging as required under this part, on or before the 45th calendar day after the end of the month in which such barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, or such later date as may be approved by the Administrator for good cause shown by the food processor. The number of certificates for the wheat used in manufacturing the beverage distilled spirits aged in each barrel shall be determined by dividing (i) the total quantity of wheat used by the processor in manufacturing all the beverage distilled spirits which are produced and placed in barrels for aging in the same marketing year as the particular barrel for which certificates are acquired, by (ii) the total number of barrels of beverage distilled spirits produced and placed in barrels for aging in such marketing year.

(2) If certificates are acquired and surrendered to Commodity Credit Corporation later than the 15th calendar day after the end of the month in which the barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, the cost of certificates acquired from Commodity Credit Corporation will be the face value of the certificates plus interest at the rate of 6 percent per annum starting on the day after such 15th calendar day until the date of surrender of the certificates.

(3) The food processor shall furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to age beverage distilled spirits without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to age the spirits without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the report period with respect to which the breach occurred.

(f) *Inapplicability of interest.* Interest charges under this section will not apply to the extent it is established to the satisfaction of the Administrator, ASCS, that a delay in the acquisition and surrender of certificates resulted from reliance in good faith upon action or advice of an authorized official of the Department. Any processor who wishes to apply for relief under this section shall submit a request in writing supported by documentary evidence necessary to substantiate the basis on which the application is made.

§ 777.12 Food processing reports.

(a) *General.* Processing reports shall be submitted by each food processor as defined in § 777.3(f). Descriptions of the processing reports are set forth in §§ 777.13 and 777.14 and detailed instructions are provided in Appendices II and III. Processing reports which are accompanied by remittances for purchase of certificates shall be submitted to the FRB unless the Commodity Office has requested that the remittance be made directly to that office. Processing reports not accompanied by remittances shall be submitted to the Commodity Office. Addresses of FRB's are listed in Appendix I.

(b) *Processing report period.* (1) The period of processing operations which a processing report shall cover shall be one of the following:

(i) Each calendar month.

(ii) 4 or 5 week periods in combination.

(iii) Each 4 weeks.

(iv) Effective commencing with the marketing year beginning July 1, 1965, each 6-month period in the case of a food processor whose certificate liability during the previous marketing year totalled 300 bushels of wheat or less. The first 6-month report shall cover the 6-month period beginning on 12:01 a.m., July 1, and ending at midnight December 31, and succeeding reports shall cover each

6-month period thereafter. CCC reserves the right to require any processor to report in the period prescribed in (i), (ii), or (iii) above.

(v) Effective commencing with the marketing year beginning July 1, 1968, once annually in the case of a food processor whose certificate liability during the previous marketing year totalled 100 bushels of wheat or less. The report shall cover the period July 1 through June 30. CCC reserves the right to require any processor to report in the period prescribed in subdivision (i), (ii), (iii) or (iv) of this subparagraph.

(2) The food processor shall report to the Commodity Office the processing report periods which he proposes using, by listing specific report periods ending dates for the entire marketing year. The list shall be submitted with Form CCC–147, "Food Processor Certificate Undertaking," if such an undertaking is made, otherwise, with the first processing report. If such list is not submitted, the food processor shall report on a calendar month basis.

(3) Once a processing report period has been established, it shall not be changed for any marketing year except with the approval of the Administrator in writing for good cause shown.

(4) The first report period for any marketing year shall begin on July 1 at 12:01 a.m. If a food processor elects to use a processing report period as provided in paragraph (b)(1) (ii) or (iii) the first report period shall end at such time short of 5 weeks as will make the second report coincide with the plant's established 4- or 5-week reporting period. The last report period for any marketing year shall end with the close of business on June 30. If the first period is less than 7 days, such period need not be reported separately, but may be included in the report for the first full 4- or 5-week period as applicable; similarly, if the last report period is less than 7 days it may be included in the last full 4- or 5-week period as applicable.

(c) *Date of submittal.* The processing report shall be submitted not later than 15 days after the close of the processing report period (or such later date as may be approved by the Administrator for good cause shown by the food processors). If the report is received by mail, it shall be deemed to have been submitted on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, it shall determine such date from other evidence available to it, including such evidence as may be supplied by the processor. If the due date of a report falls on a Saturday, Sunday, or holiday, and the report is submitted on the next succeeding workday, it shall be deemed to have been submitted on the due date.

(d) *Basis of reporting.* The weight of wheat basis of reporting prescribed in § 777.13 shall be used except that if conversion factors are provided in § 777.14 for all the food products processed in the plant (or approved combination of plants as provided in paragraph (e) of this section) covered by the report, the food processor may elect to use the food product conversion factor basis prescribed in § 777.14. The basis of reporting used in a food processor's first report in a marketing year, i.e., weight of wheat or conversion factor basis, shall be deemed to constitute his election to use such basis for the entire marketing year, and all subsequent reports for any marketing year shall be on such basis, unless the administrator for good cause shown approves in writing a change of the basis of reporting.

(e) *Plant or plants.* Separate processing reports shall be submitted for each plant in which any wheat is processed into a food product, for each processing report period, with the exception that a food processor may apply to the Director in advance for approval of a combination of two or more plants or a division of the plant. Such approval will be given if such change better suits the inventory, operating or records systems applicable to such plants and if the change does not impair verification of quantities processed. If such approval is given, the combination of plants will be assigned a new subnumber in the Director's notification of approval.

(f) *Number of report periods for which submitted.* A processing report shall be submitted for each report period beginning July 1, 1964, regardless of whether there was any wheat processed in the processing plant during the period.

(g) *Corrected processing reports.* If it is found that an incorrect processing report has been submitted, the food processor shall promptly prepare and submit a corrected processing report with the applicable beginning and ending dates for the period involved indicated thereon. A consolidated corrected report may, with the approval of the Director, be submitted to cover more than one processing report period. Such report shall be identified as a "Corrected Report" and transmitted with a letter of explanation. If the processor is entitled to a certificate refund, he shall submit the corrected report to the Commodity Office and indicate whether the amount of the refund should be paid to him or held for application to a subsequent report. If the processor is required to purchase additional certificates, he shall submit the corrected report together with his remittance for such certificates to the FRB, unless the Commodity Office requests that it be submitted directly to that office. If such certificates are surrendered to CCC later than the 15th calendar day after the close of the processing report period in which the wheat was processed into the food products, the cost of any certificates acquired from CCC shall be the face value thereof plus interest at the rate of six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates. Any food processor, who has made an incorrect processing report, corrected such report as provided in this section, and surrendered any additional certificates due with the corrected report, will not be subject to the forfeitures referred to in § 777.8 to the extent that the Administrator determines that the error in the report was due to an honest mistake and was not intentional or the result of gross negligence.

(h) *Reports from persons engaged in the processing of wheat primarily for student training, experimentation, research analysis or testing.* Notwithstanding the foregoing provision of this section, food processing reports are not required to be submitted with respect to any wheat processed at an installation by an educational institution or other person which processes wheat at the installation primarily for the purpose of student training, experimentation, research, analysis or testing during a processing report period if all the wheat processed during the period is exempt from the requirement for the acquisition of certificates under § 777.5(b)(3). If any wheat processed into food products during the report period is not so exempt, the food processor shall report on Form CCC–159 on a calendar month basis, the quantity of wheat processed into such food products. The name of such food products shall be entered on the form if not preprinted. If conversion factors are specified in § 777.14 for the food products not so exempt, the quantity of food products produced shall be entered in Item 7(a) the applicable conversion factor in Item 7(b), and the wheat equivalent in Item 7(c). If conversion factors are not so specified, the actual number of bushels used in the processing of the food products shall be entered in Item 7(c). Such person shall state in Item 8 "Wheat not exempt under § 777.5(b)(3) processed at an installation by a person engaged in the processing of wheat at such installation primarily for the purpose of student training, experimentation, research, analysis or testing." The remaining items of the report shall be completed in accordance with Appendix III.

(i) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat, the first period of processing operations which a processing report shall cover shall be the period beginning July 1, 1964, and ending June 30, 1965. Thereafter, processing reports shall cover periods as provided in paragraph (b) of this section. In addition, a food processor who has submitted the undertaking provided in § 777.11(e) shall submit not later than the 15th calendar day after the end of the month in which each barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first (or such later date as may be approved by the Administrator for good cause shown by the food processor), a report identifying the month in which this occurred, the serial number of the barrel in which such beverage distilled spirits were aged and the processing report period in which the beverage distilled spirits were produced from wheat.

§ 777.13 Weight of wheat basis of reporting.

(a) *General.* Food processors reporting the quantity of wheat processed into food products on the basis of the weight of wheat processed, shall complete Form CCC 160, Processing Report-Weight of Wheat Basis, for each reporting period in accordance with detailed instructions set forth in Appendix II of this part. Determinations of the weight of wheat processed into food products shall be made in the manner prescribed in Appendix II. No deductions may be made for any by-products of a food product obtained in the processing of the wheat.

(b) *Additional reports in absence of an undertaking.* Food processors purchasing certificates in accordance with § 777.11(c) shall supplement each Form CCC–160 with a statement showing: (1) The quantity (in cwt.) and name of food products processed in the reporting period covered by the form, (2) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during such period, (3) the reporting period in which the food product(s) specified in Item (2) were processed, and (4) the wheat equivalent in bushels of such food product(s) calculated by using the actual conversion factor experienced in the reporting period in which processed (bushels of wheat processed into food products divided by cwt. of food products produced). The processor's Form CCC–160 for the first period not covered by an undertaking shall also include a statement showing the quantity of food products remaining in inventory from the previous reporting period(s) and the wheat equivalent of such product(s). For the purpose of determining the report period in which a food product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

§ 777.14 Conversion factor basis of reporting.

(a) *Report form.* Food processors reporting the quantity of wheat processed into food products on the basis of the application of conversion factors to the weight of food products obtained in the processing operation (herein called "food product conversion factor basis") shall complete Form CCC–159, Processing Report-Conversion Factor Basis, for each reporting period.

(b) *Additional ingredients.* If the food product conversion factor basis of reporting is used to determine the quantity of the wheat processed, such quantity may be reduced by the weight of any additional ingredient included in the weight of the food products and introduced during the course of processing. "Additional ingredient" for purposes of this paragraph means:

(1) Any flour and other food products including clears and malted wheat flour, which were produced prior to July 1, 1964, or for which certificates have previously been acquired and surrendered to CCC by the processor or for which certificates are required to be acquired and surrendered to CCC by another food processor from which the food product was purchased.

(2) Any nonwheat ingredient including, but not limited to malted barley flour, creta preparata, and self-rising components, but not including moisture used in the tempering of wheat or otherwise introduced in the production of the product.

(c) *Conversion factors.* For purposes of this section, the wheat equivalent of each food product named in column A shall be the number of bushels prescribed as the conversion factor for such product in column B.

A—Food product	*B—Bushels of wheat equivalent per 100 pounds of product (conversion factor)*
Whole wheat flour or graham flour	1.700
Flour (including clears) derived from conventional milling practices which are generally accepted in the milling industry in the United States as representing a 72 percent extraction rate operation	2.315
Malted wheat flour	2.075
Semolina	2.315
Farina	2.315
Bulgur	2.000
Rolled wheat	1.860
Cracked wheat (wheat grits), ground wheat, or crushed wheat	1.700
Heavy bran, type A (extraction approximately 40 percent heavy bran and 50 percent flour)[1]	1.310
Heavy bran, type B (extraction approximately 57 percent heavy bran and 32 percent flour)[1]	1.640
Whole wheat cereal, including fines (extraction approximately 80 percent cereal and 13 percent fines)[2]	2.090
Wheat bits cereal, including fines (extraction approximately 68 percent cereal and 27 percent fines)[2]	2.440
Cracked wheat for cereal, including fines (extraction approximately 59 percent cracked wheat and 27 percent fines)[2]	2.800
Granular cereal (extraction approximately 22 percent Granular cereal and 53 percent flour)[1]	2.120
Popped wheat (manufactured from wheat that is soaked and then immersed in boiling oil)[3]	1.813
Whole wheat flakes for cereal, including fines (extraction approximately 89 percent cereal and approximately 7 percent fines)[2]	1.870

[1] The flour produced is subject to the regular conversion factor applicable to a 72 percent extraction operation.

[2] When certificates are acquired for these products based on the conversion factors specified, certificates will be deemed to have been acquired for the fines derived in connection therewith.

[3] Wheat equivalent of product is predicated on combined nonwheat ingredients equalling approximately 25.4 percent.

(d) *Other conversion factors.* (1) There shall be no conversion factors other than those prescribed in paragraph (c) of this section, except that any food processor may petition the Administrator to establish in the regulations a conversion factor for any additional food product or flour of other rates of extraction.

(2) Any person who wishes to petition for the establishment of a conversion factor for food products other than flour shall submit to the Administrator:

(i) The name and a detailed description of the food product, and

(ii) The conversion factor which is considered to be applicable. (Such factor is to be based upon the quantity of wheat, prior to cleaning, that is required to produce 100 pounds of the particular food product), and

(iii) Evidence to substantiate the recommended conversion factor.

(3) Any person who wishes to petition for the establishment of a conversion factor for flour of other rates of extraction shall submit to the Administrator the rate of extraction for which he desires the establishment of a conversion factor, and a statement to the effect that he mills flour of such rate of extraction.

(e) *Preparation of the report.* Instructions for the preparation of Forms CCC–159 are contained in Appendix III of this part.

(f) *Additional reports in absence of an undertaking.* Food processors who purchase certificates in accordance with section 777.11(c) shall supplement each Form CCC–159 with a statement showing (1) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during the period covered by the form, (2) the quantity of wheat used in the production of such food products, (3) the conversion factor(s) used in making such determination, and (4) the reporting period in which the food products were processed. The processor's Form CCC–159 for the first period not covered by an undertaking shall include a statement, showing the product, and the wheat equivalent in bushels of the products in inventory at the beginning of the period. For the purpose of determining the report period in which a product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

§ 777.15 Records.

Food processors shall establish and maintain for each processing plant or approved combination of plants accurate records and documents which are necessary (a) to determine the total quantity of wheat processed into food products based upon the weight of wheat used in processing food products as provided in § 777.13 and Appendix II or based upon the application of conversion factors to the weight of food products obtained in the processing operation as provided in § 777.14 and Appendix III, whichever is applicable and (b) to support all reports required by the regulations in this part. A food processor shall establish and maintain accurate records of all sales of food products and removals of food products for sale and consumption from the processing plant unless he elects to have all wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period. The food processor's failure to maintain such records shall constitute his election

to have wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period. Representatives of the U.S. Department of Agriculture may examine the foregoing records and documents and the stocks of wheat and food products in storage or in the processing plant at any time during normal business or working hours. All such records shall be retained for a period of three years.

§ 777.16 Casualty losses.

CCC shall make a refund to the food processor or allow him a credit against the amount payable for certificates to the extent of the value of certificates acquired and surrendered to CCC on any food products which the food processor establishes to the satisfaction of the Administrator was destroyed or rendered unmarketable for use as a food product as a result of a fire, casualty, or act of God prior to sale or removal for sale or consumption (whichever occurs first).

CCC shall make refund to an industrial user to the extent of the value of certificates acquired and surrendered on wheat used in producing flour second clears when it is established to the satisfaction of the Administrator that flour second clears acquired by the industrial user were destroyed or rendered unfit for human consumption as a result of a fire, casualty, or act of God.

§ 777.17 Payments in dispute.

The making of a payment to CCC for certificates, or the surrender of certificates to CCC by a food processor, or the making of an undertaking by the processor pursuant to § 777.11, shall not deprive the food processor of any right which he might otherwise have to assert a claim in the event of a dispute as to the number of certificates, if any, required to be acquired and surrendered by him to CCC or as to the refunds or credits against the cost of certificates to which he or the exporter of flour is entitled on flour exported.

§ 777.18 Food processors manufacturing flour second clears.

(a) *General.* The food processor is required to purchase and surrender certificates for the wheat used in processing flour second clears in accordance with the other provisions of these regulations. Refunds of the cost of such certificates shall be made only to industrial users of flour second clears as provided in § 777.19.

(b) *Certification.* The processor shall upon request from the buyer, distributor, or other transferee of flour second clears execute and furnish a Form CCC–165, Processor Certification, Flour Second Clears, to establish that the flour second clears produced by him and sold to the buyer meet the definition of flour second clears. A separate invoice and a separate Form CCC–165 is required for each separate railroad car, truckload, or other applicable shipment unit of flour second clears. The processor shall issue only one original Form CCC–165 for each such unit. The processor shall issue only one original Form CCC–165 for each shipment unit of blended flour second clears. If the blend is constituted in whole or in part of flour second clears produced by the processor in a different plant than the plant in which the blending is accomplished, a separate Form CCC–165 must be issued by each plant from which the flour second clears were transferred and such form must be retained in the records of the plant in which the blending is accomplished to identify the use of such flour second clears in the blend.

(c) *Blending by the processor.* (1) Except as provided in subparagraph (2) of this paragraph if a processor blends flour second clears with either nonqualifying clears, other types of flour or any other ingredient, or if the processor blends flour second clears produced by him with flour second clears produced by a different processor, the entire blended quantity shall be ineligible for refund.

(2) A processor may blend flour second clears under any of the following conditions without the blended lot thereby becoming ineligible for refund:

(i) If the processor blends together different quantities of flour second clears produced by him, including quantities of flour second clears produced from different classes of wheat and quantities of flour second clears produced in two or more plants;

(ii) If the processor blends flour second clears with nonqualifying clears, other types of flour or any other ingredient in a plant in which the processor, acting as an industrial user, uses the blended lot in the production of a product not for human consumption; or

(iii) If the processor mixes quantities of flour second clears with nonqualifying clears which, except for ash content, meets the requirements of § 777.3(u): *Provided* (*a*) All of the clears were produced in the same plant as where the mixing occurs, and (*b*) the clears were processed either from the same class of wheat, or if processed from different classes of wheat all of the clears in the mixture are subject to the same minimum ash requirements of § 777.3(u). The resultant product shall qualify as flour second clears if it meets the requirements of § 777.3(u), irrespective of whether all of the clears which constituted the blend conformed to the ash requirements of § 777.3(u) prior to the time the combining occurred.

(d) *Records.* The processor shall retain a copy of all Forms CCC–165 which he issues. Each Form CCC–165 shall be identified to its respective invoice number and the quantity invoiced. To support the certifications, the processor must retain laboratory reports and mill records which identify production runs by date of processing, lot number, type of wheat processed, and which can be identified to the flour second clears covered by an invoice. The laboratory reports shall contain an analysis of the ash content of the flour second clears but need not show the granulation of the clears. In the case of blended flour second clears, it is necessary that (1) all the flour second clears used in the blend be sampled and analyzed at the processor's plant where the flour second clears were produced prior to the blending and issuance of the Forms CCC–165 and (2) the records reflect the quantity of each type of flour second clears used in the blend except that the ash analysis which supports blended clears as described in paragraph (c)(2)(iii) of this section must be based on a composite of samples which are representative of the clears shipped and not on samples of the production runs comprising the shipments. The forms and records required of processors of flour second clears shall be retained and be subject to examination as provided in § 777.15.

§ 777.19 Industrial users of flour second clears.

(a) *General.* Refunds of the certificate cost for wheat used in processing flour second clears shall be made to industrial users who use the flour second clears in producing products not used for human consumption as provided in this section. The refund shall be based on the hundredweight of flour second clears used to produce a product not for human consumption, determined as provided in paragraph (h) of this section, multiplied by the refund rate determined as provided in paragraph (e) of this section.

(b) *Registration of industrial users of flour second clears.*—(1) *Requirement.* Refunds will be paid only to industrial users registered with the Director.

(2) *Method of registration.* Industrial users who wish to register shall submit to the Director, Form CCC–149, Industrial User Registration Form, in an original and two copies. Each plant must be registered separately. Forms may be obtained from either the Director or the Commodity Office.

(3) *Notification of registration by the Director.* The Director will assign an industrial user number and return one copy of the Form CCC–149 to notify the industrial user that he is registered and of the number assigned to his plant.

(c) *Reports and claims for refund.* The industrial user shall submit claims for refund to the Commodity Office on Form CCC–161, Industrial Users Production Report and Claim for Refund, except that industrial users producing nonfood products only, from flour second clears and nonqualifying clears, may submit claims for any reporting period described in paragraph (d) of this section in which such production occurred on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only). These forms shall be used by the industrial user to report all products manufactured from flour second clears and nonqualifying clears in a plant during a reporting period. Production reports on Form CCC–161 or Form CCC–161–1 must be submitted for each reporting period after the period covered by the first claim for refund even though the period may not involve a claim for refund. Payment will not be made of any claim until the Commodity Office has received from the industrial user Forms CCC–161 or Forms CCC–161–1 covering

all prior reporting periods for which the user must file a report. Where reference is made to Form CCC–161 in this section (except in paragraph (h)(3)), it shall also be deemed to refer to Form CCC–161–1.

(d) *Reporting periods.* (1) The period of processing operations which Form(s) CCC–161 must cover shall be one of the following:

(i) Each calendar or fiscal month,

(ii) Each 4- or 5-week period in combination, or

(iii) Each 4 weeks.

(2) The first report shall cover the first processing report period beginning on or after 12:01 a.m., January 1, 1966, for which the industrial user wishes to file a claim for refund. If an industrial user elects to use a reporting period other than the calendar month, the first reporting period shall end at such time short of 5 weeks as will make the second report coincide with the established fiscal month or 4- or 5-week reporting period.

(3) The industrial user of flour second clears shall report to the Commodity Office the reporting periods which he proposes using, by listing specific reporting period ending dates for the entire marketing year. If such list is not submitted, the industrial user shall report on a calendar month basis.

(4) Once a reporting period has been established, it shall not be changed except with the approval of the Administrator in writing for good cause shown.

(e) *Refund rate.* The refund rate for the marketing years beginning July 1, 1965, and July 1, 1966, shall be $1.71 per hundredweight, which was determined on the basis of the conversion factor 2.283, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1967, shall be $1.69 per hundredweight, which was determined on the basis of a conversion factor of 2.252, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1968, shall be $1.68 per hundredweight, which was determined on the basis of a conversion factor of 2.240, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate to be used is the rate applicable to the marketing year in which the flour second clears were produced as shown by the processor on Form CCC–165.

(f)(1) *Basis for claiming refund.* Refund of certificate costs may be claimed on flour second clears as provided in this section if the flour second clears were received into the industrial user's plant on and after January 1, 1966, and were either sold by the processor (i.e. title was transferred) or shipped from the processor's plant on or after November 3, 1965. The industrial user may claim the refund only after the flour second clears are used in or manufactured into products which can only be used for other than human consumption or at such time as the non-food use of the products manufactured has been established by labeling, by identification on the invoice of a product sold or removed from the plant in bulk, or by use.

(2) If a product produced from flour second clears for which an industrial user has received a refund is diverted to food use, the industrial user shall file a corrected Form CCC–161 and reimburse CCC in the amount of the overpayment of refund plus interest at 6 percent per annum starting on the date of the CCC sight draft by which refund was made to the date of payment to CCC.

(g) *Invoicing requirement.* Industrial user's invoices covering a product(s) produced from flour second clears on which a refund is requested and which can be utilized as either food or non-food must include the statement: "This product is not for human consumption."

(h) *Determination of quantity of flour second clears not used for human consumption.* The quantity of flour second clears eligible for a refund shall be determined as provided in this paragraph, unless otherwise specified in these regulations.

(1) If, during a reporting period, an industrial user produces only products not used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be the total number of hundredweight of flour second clears so used.

(2) If, during a reporting period, an industrial user produces both products not used for human consumption and products used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be determined by prorating the flour second clears used between the products produced for human consumption and the products produced for other than human consumption.

(3) If any processing involving flour second clears, nonqualifying clears or other ingredients, either alone or in combination with one another is accomplished separately from any other processing, and such separate processing is supported (in a manner satisfactory to the Administrator) by production records which identify the products to the materials used in such separate processing operation, the industrial user may report the production from such processing operation separately on Form CCC–161. (If the processing involves only other ingredients and no flour second clears or nonqualifying clears are used, such processing need not be reported.) Any period in which such separate processing operation is accomplished is referred to as a "production period" on Form CCC–161. If separate processing is claimed for any period when in fact there was not a physical separation in the production line, from the preceding and succeeding periods, of materials used and products produced, the entire claim is invalid and the industrial user submitting such claim may be subject to penalties under Federal civil and criminal statutes.

(i) *Records.* In submitting Form CCC–161 for a refund, the industrial user agrees:

(1) That he shall maintain accurate records and documents which support the information shown on Form CCC–161 and establish that he is eligible for a refund as claimed. Documents necessary shall include, among other things, Forms CCC–165 received from the processor who produced the flour second clears or Forms CCC–165–1 received from the distributor of the flour second clears which establish that the flour second clears on which a refund is requested meet the requirements of the definition as provided in § 777.3(u), production records which show the quantity of clears utilized and products produced therefrom, and records which establish that the products obtained from the flour second clears for which a refund is claimed were not used for human consumption or were disposed of other than for human consumption.

(2) That representatives of the USDA may examine such records and documents at any time during normal business or working hours.

(3) That all refunds by CCC are subject to verification that the flour second clears for which such refunds are made were produced into products not used for human consumption.

(4) That all such records and documents shall be retained for a period of 3 years.

(j) *Corrected claims for refund.* If an incorrect Form CCC–161 has been submitted to the Commodity Office, the industrial users shall promptly prepare and submit a corrected Form CCC–161. If two or more consecutive reporting periods are involved, a consolidated corrected report may, with the approval of the Director, be submitted to cover more than one reporting period. All corrected reports shall be identified by the original report number(s) and transmitted with a letter of explanation. If the industrial user is entitled to additional refund, payment will be made by the Commodity Office. If an amount is due CCC, the industrial user shall include with the corrected report payment of the amount due CCC, plus interest at 6 percent per annum starting on the date of the CCC sight draft by which the excess refund was made to the date of payment to CCC.

(k) *Performance security.* If requested by the Administrator, the industrial user shall furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to protect the Department from any damages resulting from action by the industrial user.

(l) *Blended flour second clears.* A blended quantity of flour second clears acquired by the industrial user shall be ineligible for refund if:

(1) The quantity had been blended by the processor from flour second clears and nonqualifying clears or any other ingredient unless permitted by § 777.18(c)(2);

(2) The quantity had been blended by the processor from flour second clears

produced by him and flour second clears produced by another processor; or

(3) The quantity had been blended by a distributor or any person other than the processor of the flour second clears. A blended quantity of flour second clears acquired by the industrial user may qualify for a refund if the quantity had been blended by the processor in accordance with the provisions of § 777.18 (c)(2). The industrial user may also blend flour second clears in a plant in which the clears are used in the production of a product not for human consumption. An industrial user who acquires blended flour second clears should exercise care that the blend acquired by him is in compliance with the provisions of § 777.18(c)(2).

§ 777.20 Sales of flour second clears by distributors.

(a) *General.* If flour second clears are sold to an industrial user by a distributor, broker, or agent (herein referred to as a distributor) and the distributor elects not to furnish the industrial user with the Form CCC–165 issued by the processor, the industrial user may qualify for a refund on such clears only if the industrial user has obtained in lieu thereof a Form CCC–165–1 properly executed by a distributor who is registered with the Director.

(b) *Time of registration.* A distributor must be registered prior to issuing to an industrial user any Form CCC–165–1 which is used to support a claim for refund.

(c) *Method of registration.* A distributor who wishes to be registered must submit an application to the Director in writing that he wishes approval to issue to buyers of flour second clears properly executed Forms CCC–165–1 which may be used in lieu of Form CCC–165 as a basis for a claim for refund.

(d) *Conditions for registration.* The distributor shall agree in his application for registration:

(1) That he will properly execute Forms CCC–165–1 and shall maintain accurate records and documents (including Forms CCC–165 and a copy of each related Form(s) CCC–165–1) which verify that the flour second clears shipped to an industrial user for which a Form CCC–165–1 was issued are the flour second clears which he had received supported by a Form CCC–165.

(2) That any pertinent records and documents will be retained for a period of 3 years and that representatives of USDA may examine them at any time during normal business or working hours.

(3) That he will, if requested by the Administrator, furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to protect the Department from any damages that may result from action by the distributor.

(e) *Notification of registration by the Director.* The Director will assign a distributor registration number and notify the distributor in writing that he is registered and give the number assigned to him unless it is determined that to permit such distributor to be registered is not in the best interest of the United States.

(f) *Blending.* If flour second clears supported by more than one Form CCC–165 are blended together or if flour second clears are blended with nonqualifying clears or any other ingredient by the distributor, the entire blended lot shall be ineligible for refund.

APPENDIX I—LIST OF FEDERAL RESERVE BANKS AND BRANCHES

Federal Reserve Bank	*Address*
Boston	30 Pearl Street, Boston, Mass. 02106.
New York	33 Liberty Street, New York, N.Y. 10045.
Buffalo Branch	160 Delaware Avenue, Buffalo, N.Y. 14240.
Philadelphia	925 Chestnut Street, Philadelphia, Pa. 19101.
Cleveland	1455 East Sixth Street, Post Office Box 6387, Cleveland, Ohio 44101.
Cincinnati Branch.	105 West Fourth Street, Post Office Box 999, Cincinnati, Ohio 45201.
Pittsburgh Branch.	717 Grant Street, Post Office Box 867, Pittsburgh, Pa. 15230.
Richmond	100 North Ninth Street, Richmond, Va. 23213.
Baltimore Branch.	114–120 East Lexington Street, Baltimore, Md. 21203.
Charlotte Branch.	401 South Tryon Street, Charlotte, N.C. 28201.
Atlanta	104 Marietta Street NW., Atlanta, Ga. 30303.
Birmingham Branch.	1801 Fifth Avenue North, Post Office Box 2574, Birmingham, Ala. 35202.
Jacksonville Branch.	515 Julia Street, Post Office Box 929, Jacksonville, Fla. 32201.
Nashville Branch.	301 Eighth Avenue North, Nashville, Tenn. 37203.
New Orleans Branch.	147 Carondelet Street, Post Office Box 61630, New Orleans, La. 70160.
Chicago	230 South La Salle Street, Post Office Box 834, Chicago, Ill. 60690.
Detroit Branch	160 Fort Street West, Post Office Box 1059, Detroit, Mich. 48231.
St. Louis	411 Locust Street, Post Office Box 442, St. Louis, Mo. 63166.
Little Rock Branch.	West Capital and Spring Street, Post Office Box 1261, Little Rock, Ark. 72203.
Louisville Branch.	410 South Fifth Street, Post Office Box 899, Louisville, Ky. 40201.
Memphis Branch.	170 Jefferson Street, Post Office Box 407, Memphis, Tenn. 38101.
Minneapolis	73 South Fifth Street, Minneapolis, Minn., 55440.
Helena Branch	400 North Park Avenue, Helena, Mont. 59601.
Kansas City	925 Grand Avenue, Kansas City, Mo. 64198.
Denver Branch	1111 17th Street, Denver, Colo. 80217.
Oklahoma City Branch.	226 Northwest Third Street, Oklahoma City, Okla. 73125.
Omaha Branch	102 South 17th Street, Omaha, Nebr. 68102.
Dallas	400 South Arkard Street, Station K, Dallas, Tex. 75222.
El Paso Branch	301 East Main Street, Post Office Box 100, El Paso, Tex. 79999.
Houston Branch.	1701 San Jacinto Street, Post Office Box 2578, Houston, Tex. 77001.
San Antonio Branch.	210 West Nueva Street, Post Office Box 1471, San Antonio, Tex. 78206.
San Francisco	400 Sansome Street, San Francisco, Calif. 94120.
Los Angeles Branch.	409 West Olympic Boulevard, Post Office Box 2077, Los Angeles, Calif. 90054.
Portland Branch.	915 Southwest Stark Street, Post Office Box 3456, Portland, Oreg. 97208.
Salt Lake City Branch.	120 South State Street, Post Office Box 780, Salt Lake City, Utah 84110.
Seattle Branch	1015 Second Avenue, Post Office Box 3567, Seattle, Wash. 98124.

Processors are requested to use the Post Office Box number only when sending remittances to the Federal Reserve Bank or Branch for which both the street address and Post Office Box number are shown in Appendix I.

APPENDIX II—INSTRUCTIONS FOR PREPARATION OF PROCESSING REPORT—WEIGHT OF WHEAT BASIS

Food processors reporting on the weight of wheat basis shall submit an original and one copy of Processing Report-Weight of Wheat Basis, Form CCC–160, as set forth in § 777.12(a). Retain a copy of the processing report and all copies of any supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4A the inventory of wheat at the processing plant location as of the beginning of the reporting period. Specify the total of all stocks of wheat (including stocks stored for others) in the processing plant and in any elevator operated by the processor at the processing plant location or servicing the processing plant which remain in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Except as of July 1, 1964, use the ending inventory from the previous report. As of July 1, 1964, the quantity of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. Deduct from the uncleaned quantity included in the beginning inventory, any officially determined dockage contained in the equivalent quan-

tity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis on which no official dockage determination was made, but the dockage content was unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from the quantity so received.

(5) Enter in Item 4B the weight of all wheat received in the processing plant and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks owned by others) during the reporting period. Such quantity shall be the gross weight received less any officially determined dockage. If any wheat is received on a gross weight basis and no official dockage determination was made, but the dockage content is unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from such quantity. If any wheat has been artificially dried (through the use of artificial heat) at the elevator operated by the processor at the processing plant location, or at the plant prior to processing in order to permit it to be safely stored, the processor may determine the quantity to be entered in Item 4B by using the gross weight of such wheat after it has been artificially dried less dockage (as determined in this paragraph), except that the weight of wheat artificially dried to less than 12.5 percent moisture shall be adjusted upward to reflect a 12.5 percent moisture. When the weight after artificial drying through the use of artificial heat is used, the processor must show in his records the gross weight and the moisture content of the wheat after drying. If the processor is unable to weigh the wheat as it is removed from the dryer, he may determine the weight which is lost through artificial drying of such wheat on the following basis: Multiply the receiving weight by 1.2 times the percentage difference between the moisture content of the wheat prior to drying and the moisture content of the wheat after drying or 12.5 percent whichever is higher. Processors shall use one of the following moisture meters or methods to determine the moisture content of the wheat: (a) Motomco, (b) Steinlite, (c) Air-oven method, or (d) Tag-heppenstall. When the Tag-heppenstall is used, care should be taken to thoroughly mix the sample prior to testing. If the processor wishes to use any other meter or method to determine moisture, he must first receive approval from the Director.

(6) Enter in Item 4C the total of Items 4A and 4B.

(7) Enter in Item 5A the quantity of wheat processed into food products on which the farm use exemption set forth in § 777.5(b)(1) applies. Enter the actual quantity processed into the food product delivered, or the quantity of wheat obtained by applying the conversion factor provided in § 777.14 to the quantity of food product delivered. Such quantity must be supported by Forms CCC–148 executed by the persons to whom the food product was delivered.

(8) Enter in Item 5B the quantity of wheat processed in bond during the period for which an exemption is claimed under § 777.5(b)(2). Such quantity must be supported by authenticated copies of Customs Form 7521; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(9) Enter in Item 5C the quantity of wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.5(b)(4). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(10) Enter in Item 5D the quantity of wheat processed into food products for donation for which an exemption is claimed under § 777.5(b)(5). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the Institution receiving the food product(s).

(11) Enter in Item 5E the quantity of wheat processed into food products which is for noncommercial uses as stated in § 777.5(b)(6). (Identify use in the remarks section of Form CCC–160.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(12) Enter in Item 5F the quantity of wheat processed into nonfood products during the period (see § 777.3(c)). Such quantity shall be the gross weight less any officially determined dockage. If any wheat is processed into nonfood products and no official dockage determination was made and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent. Do not include the weight of any byproduct of food products, or the weight of any screenings or other residue from cleaning the wheat used or to be used by the food processor for processing into food products. Also do not include flour second clears which are not used for human consumption. If a deduction is taken for loss due to unsuitable production, pursuant to § 777.3(c)(4), identify in the "remarks" space on Form CCC–160 the cause of such loss.

(13) Enter in Item 5G the weight of all wheat removed from the processing plant and from any elevator operated by the processor at the processing plant location servicing the processing plant for shipment, sale, delivery to the owner, transfer to other plants or other dispositions as wheat. Such quantity shall be the gross weight of the wheat removed less any officially determined dockage. If any wheat is removed and no official dockage determination made, and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent. Also include in Item 5G the quantity of any wheat destroyed. Do not include the weight of any byproducts of food products or the weight of any screenings or other residue from cleaning wheat used or to be used by the food processor for processing into food products.

(14) Enter in Item 5H the quantity of shrinkage, if any (including shrinkage incurred through aeration), applicable to the weight of wheat received at the processing plant location during the processing report period (Item 4B). Such shrinkage quantity shall not exceed three-fifths of 1 percent of the quantity entered in Item 4B. Any shrinkage deducted of one-eighth of 1 percent or less must be determined on a reasonable basis which can be supported by the processor. Any shrinkage deducted in excess of one-eighth of 1 percent must be based on the most recent representative experience for which the processor has records reflecting his average shrinkage per bushel of wheat received. Shrinkage resulting from artificial drying (through the use of artificial heat), cleaning, or screening of wheat is not eligible for deduction as shrinkage. Processors may, however, reflect in the manner prescribed in Item 5 of this appendix, the loss of weight resulting from artificial drying (through the use of artificial heat) prior to processing in order to permit the wheat to be safely stored.

If the processor can establish his actual shrinkage for the 1964 marketing year, he may elect to enter in Item 5H of his processing report for the period ending June 30, 1965, the actual shrinkage for the 1964 marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received at the processing plant during the marketing year as reported in Item 4B) less the total shrinkage previously reported. In such case he shall enter in the remarks section of the processing report "shrinkage adjusted based on actual experience for the current marketing year."

Shrinkage claimed for the 1965 and subsequent marketing years must be adjusted to actual shrinkage for the marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received during the marketing year as reported in Item 4B) in the same manner as provided on an optional basis for the 1964 marketing year. Such adjustment shall be made in the processing report for the period ending June 30 of the marketing year involved.

If the processor elects to take a closing inventory as prescribed in the following paragraph (Item 15) as of his fiscal closing date in lieu of taking a closing inventory as of June 30 of each marketing year, the foregoing provisions applicable to June 30 reporting shall apply to the report covering the fiscal closing date.

(15) Enter in Item 5I the inventory of wheat as of the end of the reporting period, including all stocks of wheat in the processing plant, and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks stored for others) which remains in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Deduct from the unclean quantity included in the ending inventory any officially determined dockage contained in the equivalent quantity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis and no official dockage determination was made, but the dockage content was unofficially determined in accordance with the usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) shall be deducted from the quantity so received.

If accurate book inventory records are maintained, such book quantities may be used except as of June 30, or the processor's own fiscal year closing date, whichever is applicable for each marketing year. As of whichever of such dates is applicable, the quantities of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. Once the ending inventory is determined by weighup, it shall continue to be determined on a weighup basis for each marketing year thereafter unless prior approval to change is received from the Director for good cause shown. The processor may elect to use a fiscal closing date other than June 30, of each year.

When such an election is taken, the processor must notify the Commodity Office in writing of his election and specify the fiscal closing date to be used. Such notice must be made at least 30 days in advance of the actual fiscal closing date. An inventory as prescribed in the preceding paragraph of this item may be required as of June 30 of any marketing year if there is to be a change in the cost of marketing certificates for the succeeding marketing year.

If accurate book inventory records are not maintained, the quantities of wheat for each reporting period shall be determined by weighup or by accurate measurement of the wheat.

(16) Enter in Item 5J the total of Items 5A through 5I.

(17) Enter in Item 6 the result obtained by deducting the quantity shown in Item 5J from the quantity shown in 4C.

(18) Enter in Item 7D the face value of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 6 by the applicable cost of certificates as specified in § 777.5(a).

(19) Enter in Item 7A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 7B the amount of remittance enclosed.

(21) Enter in Item 7C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat and who has filed the undertaking provided in § 777.11(e), enter in the remarks section the identifying serial numbers of each barrel in which the beverage distilled spirits are placed for aging. The reverse side of the form may be used if necessary.

(23) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the spaces provided.

APPENDIX III—INSTRUCTIONS FOR PREPARATION OF PROCESSING REPORT—CONVERSION FACTOR BASIS

Food processors reporting on a food product conversion factor basis shall submit an original and one copy of the Processing Report-Conversion Factor Basis, Form CCC–159, as set forth in § 777.12(a). Retain a copy of the report and supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4 the names of the respective food products processed in the plant during the reporting period, if the names of these products are not preprinted on the form.

(5) Enter in Item 5 for each food product processed during the reporting period the total quantity in hundredweights which was processed. (When flour is produced, include the weight of all clears.) Do not include any food product which prior to marketing or removal from the plant (whichever occurs first) becomes unsuitable as a food product and is not used for human consumption.

(6) Enter in Item 6A the hundredweight of food product processed on which the farm-use exemption set forth in § 777.5(b)(1) applies. Such weight must be supported by Forms CCC–148 executed by the person to whom the food product was delivered.

(7) Enter in Item 6B the hundredweight of the food product processed in bond during the period for which an exemption is claimed under § 777.5(b)(2). Such quantity must be supported by authenticated copies of Customs Form 7521; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(8) Enter in Item 6C the hundredweight of food product processed from wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.5(b)(4). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(9) Enter in Item 6D the hundredweight of food product processed for donation for which an exemption is claimed under § 777.5(b)(5). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the institution receiving the food product(s).

(10) Enter in Item 6E the hundredweight of food product processed which is for noncommercial uses as stated in § 777.5(b)(6). (Identify use in the remarks section of Form CCC–159.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(11) If the weight of any additional ingredient set forth in paragraph (b) of § 777.14 is included in the weights entered in Item 5, enter in Item 6F such total weight minus the total weight of any such ingredients included in the weights entered in A, B, C, D, and E of this Item 6. The food processor must maintain records on an individual additional ingredient basis which substantiates any entry in this Item 6F.

(12) Enter in Item 6G the total of Items 6 A, B, C, D, E, and F.

(13) Enter in Item 7A the difference between Item 5 and 6G.

(14) Enter in Item 7B the applicable conversion factor from section 777.14.

(15) Enter in Item 7C the result of Item 7A times Item 7B.

(16) Enter the total of Item 7 in the space provided.

(17) Enter in Item 8 any applicable remarks.

(18) Enter in Item 9D the face value of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 7C by the applicable cost of certificates as specified in § 777.5(a).

(19) Enter in Item 9A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 9B the amount of remittance enclosed.

(21) Enter in Item 9C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the space provided.

APPENDIX IV—INSTRUCTIONS TO INDUSTRIAL USERS FOR PREPARATION OF INDUSTRIAL USERS PRODUCTION REPORT AND CLAIM FOR REFUND FORMS

Industrial Users wishing to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption shall submit such claims on Form CCC–161, Industrial Users Production Report and Claim for Refund, to the Commodity Office as provided in § 777.19. A copy of each Form CCC–161 shall be retained by the industrial user. Instructions for the completion of Form CCC–161 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) Heading. (A) Enter name and mailing address.

(B) Enter the industrial user number assigned on registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See § 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2I of the preceding Form CCC–161.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 and/or CCC–165–1. If during one reporting period there are involved flour second clears identifiable to more than one marketing year, separate Forms CCC–161 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity used during no-refund production periods as shown in applicable Items 4F.

(F) Enter the quantity of flour second clears used as an additive to products shown in Item 4A. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to gluten.)

(G) Enter quantity of flour second clears used as an additive to products shown in Item 4C. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to animal feed manufactured from starch.)

(H) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(I) Enter the quantity on hand at the end of the reporting period.

(J) Enter the total of Items 2D through 2I.

(K) Enter the difference between Items 2C and 2J.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2K of each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears produced from (1) hard wheat, (2) soft wheat, (3) durum, and (4) the total thereof on the basis of information as to type of wheat shown on the Forms CCC–165 and CCC–165–1. The total must agree with the sum of Items 2E, 2F, 2G, and 2K. If blended flour second clears are shown on the Form(s) CCC–161, indicate the quantity of blended clears used.

(B) Enter the quantity of (1) imported clears and (2) other non-qualifying clears.

(4) *Products manufactured from clears—production periods.* Check appropriate box to indicate whether refund or nonrefund period. See § 777.19(h)(3). If more than one production period is reported, also use reverse side of form and show the beginning and ending dates of each production period. If flour second clears used during the reporting period had been processed from wheat in more than one marketing year, prorate the hundredweight of product produced during the reporting period between the Forms CCC–161 prepared for the different marketing years. Use the same percentage as used to distribute the quantities required to be entered in Item 3 of each Form CCC–161.

(A) List the food products produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the

food products produced. Determine such weight by subtracting from the gross weight of each food product produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to gluten, (ii) the weight of flour second clears used as an additive (Item 2F), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2F for flour second clears; and adjusting the remainder to a 12% moisture basis.

(B) Enter the total of the weights entered under Item 4A.

(C) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the products not for human consumption produced. Determine such weight by subtracting from the gross weight of each product not for human consumption produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to starch, (ii) the weight of flour second clears used as an additive (Item 2G), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2G for flour second clears; and adjusting the remainder to a 12% moisture basis.

(D) Enter the total of the weights entered under Item 4C.

(E) Enter the total of Items 4B and 4D.

(F) Enter quantity of flour second clears used for the production period. Total of Items 4F for all refund production periods reported on form must equal the quantity shown in item 2K. Total of items 4F for all no-refund production periods reported on form must equal the quantity shown in item 2E.

(G) Enter the percentage relationship of products not for human consumption to all products produced during the refund period. Item 4D divided by Item 4E.

(H) Enter the quantity of flour second clears for which refund is being applied. Multiply Item 4F by 4G. For refund periods II through V, if applicable, bring the entries forward to applicable period shown under Item 4H of period I on face of form.

(I) Enter quantity shown in Item 2G.

(J) Enter the quantity shown in Item 2H.

(K) Enter total of Items 4H, 4I, and 4J.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4K by the applicable refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the indsutrial user.

APPENDIX V—INSTRUCTIONS FOR PREPARATION OF INDUSTRIAL USERS PRODUCTION REPORT AND CLAIM FOR REFUND FORMS (FOR USERS WHO PRODUCE NONFOOD PRODUCTS ONLY)

Industrial users manufacturing nonfood products only, who wish to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption may submit such claims on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only), to the Commodity Office as provided in § 777.19. A copy of each Form CCC–161–1, shall be retained by the industrial user. Instructions for the completion of Form CCC–161–1 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) *Heading.*

(A) Enter name and mailing address.

(B) Enter the industrial user number assigned on Registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161–1 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2F of the preceding Form CCC–161–1.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 or CCC–165–1. If during one reporting period there are received flour second clears identifiable to more than one marketing year, separate Forms CCC–161–1 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(F) Enter the quantity on hand at the end of the reporting period.

(G) Enter the total of Items 2D through 2F.

(H) Enter the difference between Items 2C and 2G.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161–1 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2H of the report for each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears used which were produced from (1) hard wheat, (2) soft wheat, (3) Durum or (4) if blended clears are received and used, enter the quantity used. (5) Enter the total of (1), (2), (3), and (4). The quantities shown in (1), (2), (3), and (4) must be on the basis of information as to type of wheat and/or clears shown on the Forms CCC–165 and CCC–165–1. The total must agree with the quantity shown in Item 2H.

(B) Enter the quantity of (1) imported clears and (2) other nonqualifying clears.

(4) *Products manufactured from clears.*

(A) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the flour second clears used to produce the products not for human consumption.

(B) Enter the total of the weights shown under Item 4A.

(C) Enter the quantity shown in Item 2H.

(D) Enter the quantity shown in Item 2E.

(E) Enter total of Items 4C and 4D.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4E by the refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the industrial user.

NOTE: The recordkeeping and reporting requirements of Part 777 have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Since the new conversion factor of 1.860 for rolled wheat is needed immediately in the administration of the regulations, it is hereby found and determined that compliance with the 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553) is unnecessary and contrary to the public interest and that the factor shall be effective with the first reporting period beginning on or after the date that this Republication appears in the FEDERAL REGISTER.

This Republication has not included the special provisions relating to transition from the 1963 wheat program to the 1964 marketing allocation program that formerly appeared as § 777.6 and Appendix I since they are not applicable to current operations. Persons who wish to refer to these provisions may locate them in the Republication of the Regulations that appeared at 31 F.R. 13502 (October 19, 1966).

The sections which are numbered in this Republication as §§ 777.4, 777.5 and 777.6 formerly were numbered as §§ 777.25, 777.4 and 777.5, respectively.

Signed at Washington, D.C. on September 25, 1968.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 68–11828; Filed, Sept. 30, 1968; 8:45 a.m.]