FEDERAL REGISTER

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Pages 18253–18337

PART I

(Part II begins on page 18333)

Agencies in this issue—

The President
Agricultural Research Service
Agriculture Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Equal Employment Opportunity Commission
Federal Aviation Administration
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Reserve System
Fiscal Service
Fish and Wildlife Service
General Services Administration
Housing and Urban Development Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
Maritime Administration
National Park Service
Packers and Stockyards Administration
Securities and Exchange Commission
Small Business Administration

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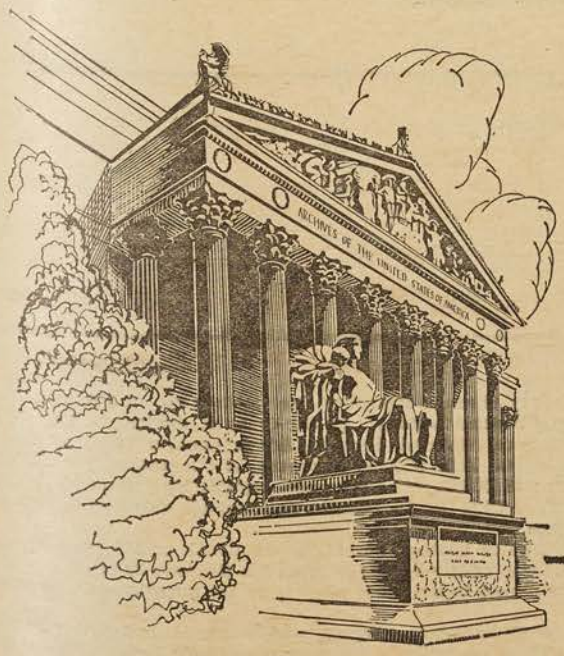

Volume 81

UNITED STATES STATUTES AT LARGE

[90th Cong., 1st Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1967, reorganization plans, the twenty-fifth amendment to the Constitution, and Presidential proclamations. Also included are: a subject index, tables of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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

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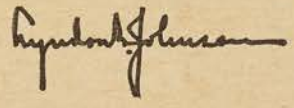
Title 3—THE PRESIDENT

Executive Order 11439

Revoking Executive Order No. 11372, Designating the Lake Ontario Claims Tribunal as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288), and having found that the Lake Ontario Claims Tribunal has discharged its functions and adjourned, I hereby revoke Executive Order No. 11372[1] of September 18, 1967, designating the Lake Ontario Claims Tribunal as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.



THE WHITE HOUSE,
December 7, 1968.

[F.R. Doc. 68-14847; Filed, Dec. 9, 1968; 12:15 p.m.]

[1] 3 CFR, 1967 Comp., p. 319; 32 F.R. 13251.

Rules and Regulations

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1604—GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

Revocation of Certain Provisions

The following was unanimously adopted at a duly constituted meeting of the Equal Employment Opportunity Commission held on December 3, 1968.

The provisions of § 1604.4, effective on April 28, 1966 (31 F.R. 6414) have, in the opinion of the Commission, been superseded as of December 1, 1968, by virtue of the Commission's action, notice of which was published in the FEDERAL REGISTER on August 13, 1968, (33 F.R. 11539). Accordingly, the provisions of § 1604.4 (effective Apr. 28, 1966) are hereby rescinded. The effective date of the revision of § 1604.4, which was to be December 1, 1968, is stayed pursuant to an order of the U.S. District Court for the District of Columbia issued November 25, 1968.

(Sec. 713(b), 42 U.S.C. § 2000e–12(b), of title VII of the Civil Rights Act of 1964)

Signed at Washington, D.C., this 5th day of December 1968.

[SEAL] CLIFFORD L. ALEXANDER, Jr.,
Chairman.

[F.R. Doc. 68–14761; Filed, Dec. 9, 1968; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration

[Docket No. 9105, Amdt. 39–691]

PART 39—AIRWORTHINESS DIRECTIVES

Vickers Viscount 744, 745D, and 810 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections and replacement of body halves of the nose wheel steering twin relief valve on Vickers Viscount Models 744, 745D, and 810 series airplanes was published in 33 F.R. 12579.

Interested persons have been afforded an opportunity to participate in the making of the amendment. In response to a comment received, the FAA has determined that it is not necessary in the interest of safety to require that the repetitive inspection for valves which have accumulated between 14,650 hours and 20,000 hours' time in service be performed at intervals of 1,000 hours. Such inspections need only be performed at intervals of 2,500 hours' time in service, and the proposal has been changed accordingly.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

VICKERS. Applies to Viscount Models 744, 745D, and 810 Series Airplane.

Compliance required as indicated unless already accomplished.

To prevent fatigue failure of the nose wheel steering twin relief valve, P/N 70026 Sh. 35 at the valve body halves P/N 70026, Part 251 and Part 253, accomplish the following:

(a) Inspect the valve body halves as specified in paragraph (b) at the following times;

(1) Valves having less than 14,650 hours time in service on the effective date of the AD must be inspected prior to the accumulation of 15,000 hours time in service and thereafter at intervals not to exceed 2,500 hours time in service.

(2) Valves that have accumulated 14,650 or more but less than 20,000 hours time in service on the effective date of this AD must be inspected within the next 350 hours time in service and thereafter at intervals not to exceed 2,500 hours time in service.

(3) Valves that have accumulated 20,000 or more but less than 22,800 hours time in service on the effective date of this AD must be inspected within the next 350 hours time in service and thereafter at intervals not to exceed 1,000 hours time in service.

(4) Valves that have accumulated 22,800 or more hours time in service on the effective date of this AD must be inspected within the next 350 hours time in service.

(b) Inspect the valve body halves for cracks at the fluid transfer holes by a dye penetrant method in accordance with British Aircraft Corp., Viscount Preliminary Technical Leaflet No. 265, Issue 2 (700 Series) or No. 128 Issue 2 (810 Series) or later ARB-approved issue or an FAA-approved equivalent.

(c) Replace the valve body halves in accordance with paragraph (d) at the following times:

(1) If cracks are found during the inspections required by paragraph (a), replace the valve body halves prior to further flight.

(2) If no cracks are found during the inspections required by paragraph (a), replace the valve body halves as follows:

(i) Valves having less than 14,650 hours time in service on the effective date of this AD, must be replaced before the accumulation of 20,000 hours time in service.

(ii) Valves having 14,650 or more but less than 22,800 hours time in service on the effective date of this AD must be replaced before the accumulation of 23,500.

(iii) Valves having 22,800 or more hours time in service on the effective date of this AD must be replaced within the next 750 hours time in service after the effective date of this AD.

(d) Replace valve body halves with parts having the same part numbers which have been inspected and found to have no cracks or with new valve body halves P/N 70026–637–639.

(e) Valves of the same part numbers used as replacements must continue to be inspected in accordance with paragraph (a) and replaced in accordance with paragraph (c). Compliance with the inspection and replacement requirements of this AD may be discontinued when new valves P/N 70026–637–639 are incorporated.

This amendment becomes effective January 7, 1969.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; section 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 3, 1968.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 68–14673; Filed, Dec. 9, 1968; 8:45 a.m.]

[Airspace Docket No. 68–SO–97]

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

Revocation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Albemarle, N.C., transition area.

The Albemarle transition area is described in § 71.181 (33 F.R. 2137).

The controlled airspace protection at the Albemarle Airport is not required as the Special Standard Instrument Approach Procedure, ADF–1, has been canceled, effective November 15, 1968. Accordingly, it is necessary to revoke the transition area which was established to provide the required controlled airspace protection for IFR aircraft executing this approach.

Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Albemarle, N.C., transition area is revoked.

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

Issued in East Point, Ga., on November 29, 1968.

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

[F.R. Doc. 68–14674; Filed, Dec. 9, 1968; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9258; Amdt. 626]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
R 220, clockwise	SVM R 308°	Via 7-mile DME Arc.	2500	T-dn	300–1	300–1	200–½
				C-d	1000–1	1000–1	1000–1½
R 055°, counterclockwise	SVM R 308°	Via 7-mile DME Arc.	2600	C-n	1000–1½	1000–1½	1000–1½
				A-dn	NA	NA	NA
7-mile DME Fix, R 308°	SVM VOR (final)	Direct	2500	Minimum with DME or Dual VOR receivers:			
				C-d	500–1	500–1	500–1½
				C-n	500–1½	500–1½	500–1½

Radar available.
Procedure turn S side of crs, 308° Outbnd, 128° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2500′; over Road Int, 1675′.
Crs and distance, facility to airport, 128°—9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 9 mile after passing SVM VOR, make left-climbing turn to 2500′ and return to SVM VOR.
NOTE: Use Willow Run altimeter setting.
CAUTION: Mettetal airport 2 miles NW on final approach crs.
MSA within 25 miles of facility: 000°–180°—2800′; 180°–270°—2500′; 270°–360°—2600′.

City, Westland; State, Mich.; Airport name, National; Elev., 675′; Fac. Class., L-BVORTAC; Ident., SVM; Procedure No. VOR 1, Amdt. Orig.; Eff. date, 26 Dec. 68

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

Auburn, Maine—Auburn-Lewiston Municipal, ADF 2, Orig., 7 May 1966 (established under Subpart C).
Cincinnati, Ohio—Cincinnati Municipal-Lunken Field, NDB (ADF) Runway 20L, Amdt. 2, 4 Mar. 1967 (established under Subpart C).
Cincinnati, Ohio—Cincinnati Municipal-Lunken Field, NDB (ADF) 2, Runways 20L and 24, Amdt. 1, 6 May 1967 (established under Subpart C).
Olean, N.Y.—Olean Municipal, ADF 1, Amdt. 5, 30 Apr. 1966 (established under Subpart C).
Pittsfield, Mass.—Pittsfield Municipal, ADF 1, Amdt. 1, 9 Oct. 1965 (established under Subpart C).
Brownsville, Tex.—Rio Grande Valley International, VOR Runway 26, Amdt. 9, 9 May 1968 (established under Subpart C).
Columbia, Mo.—Municipal, VOR Runway 17, Amdt. 6, 20 July 1967 (established under Subpart C).
Gardner, Mass.—Gardner Municipal, VOR 1, Orig., 3 July 1965 (established under Subpart C).
Marianna, Fla.—Marianna Municipal, VOR Runway 32, Orig., 27 Apr. 1967 (established under Subpart C).
Rocky Mount, N.C.—Rocky Mount Municipal, VOR 1, Amdt. 4, 22 Jan. 1966 (established under Subpart C).
Southern Pines, N.C.—Pinehurst-Southern Pines, VOR 1, Amdt. 4, 4 Mar. 1967 (established under Subpart C).
Tewksbury, Mass.—TEW-MAC, VOR 1, Orig., 18 June 1966 (established under Subpart C).
Willimantic, Conn.—Windham, VOR 1, Amdt. 1, 24 Apr. 1965 (established under Subpart C).

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

Columbia, Mo.—Columbia Municipal, VOR Runway 35, Amdt. 4, 20 July 1967, canceled, effective 26 Dec. 1968.
Plymouth, Mich.—National, VOR Runway 11, Orig., 1 Feb. 1968, canceled, effective 26 Dec. 1968.

4. By amending § 97.15 of Subpart B to delete very high frequency omnirange-distance measuring equipment (VOR/DME) procedures as follows:

Rocky Mount, N.C.—Rocky Mount Municipal, VOR/DME-1, Amdt. 1, 23 Dec. 1967 (established under Subpart C).

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
				T-dn	300–1	300–1	200–½
				C-dn	600–1	600–1	600–1½
				S-dn-13L	600–1	600–1	600–1
				A-dn	800–2	800–2	800–2

Radar required.
Procedure turn not authorized.
Minimum altitude over OM on final approach crs, 1500′.
Crs and distance, OM to airport, 132°, 4.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb straight ahead intercept and proceed via the JFK R 077° to DPK VORTAC climbing to 3000′. Hold at DPK VORTAC E, 1 minute, left turns, 257° Inbd.
NOTES: (1) ASR. (2) Inoperative components table does not apply to HIRLs. Supplementary charting information: TDZ elevation, 12′. Start profile at OM.

City, New York; State, N.Y.; Airport name, John F. Kennedy International; Elev., 12′; Fac. Class., Loc; Ident., I-TLK; Procedure No. LOC Runway 13L, Amdt. Orig.; Eff. date, 19 Dec. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Lakewood Int	LOM (final)	Via OBK R 272°, and NW crs ORD ILS.	2200	T-dn#	300–1	300–1	200–½
				C-dn	500–1	500–1	500–1½
				S-dn-14R*%	200–½	200–½	200–½
				A-dn	600–2	600–2	600–2
ORD VOR	LOM	Direct	2500	Category II special authorization required: TDZ elevation, 667′. Decision heights, S-dn-14R—DH 150, RVR 1600′, 817′ MSL, RA–151′. S-dn-14R, DH 100, RVR 1200′, 767′ MSL, RA 110′.			
Warren Int	LOM	Direct	2500				
Elgin Int	LOM	Direct	2500				
Niles Int	ORD VOR	Direct	3000				
Deerfield Int	LOM	Direct	2500				
OBK VOR	LOM	Direct	2500				

Radar available.
Procedure turn W side of crs, 318° Outbnd, 138° Inbnd, 2500′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2200′.
Altitude of glide slope and distance to approach end of runway at OM, 2140′—5.3; at MM, 861′—0.5.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing LOM, turn right to a heading of 155° and climb to 1500′, then make a right-climbing turn to 3500′ and proceed to DPA VOR via R 085° or, when directed by ATC, turn right to heading of 155° and climb to 1500′, then make right-climbing turn to 2500′ and proceed to Elgin Int. via ORD R 271°.
CAUTION: When conducting a parallel approach, parallel ILS-14R and L procedure must be used.
NOTES: (1) Runway 14R LOM named "Romeo". (2) Back crs unusable.
CAUTION: Takeoffs on Runway 32L, when weather is below 1000-3, climb to 2000′ MSL on runway heading prior to making left turn.
%600–¾ required when glide slope not utilized and 500–½ authorized with operative ALS, except for 4-engine turbojets.
*2400′ RVR.
#RVR 2400′ authorized Runways 14L and R, 32L and R, and 27 R.
MSA within 25 miles of O R LOM: 000°–090°—2500′; 090°–180°—3000′; 180°–360°—2500′.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667′; Fac. Class., ILS; Ident., I-ORD; Procedure No. ILS Runway 14R, Amdt. 14; Eff. date, 26 Dec. 68; Sup. Amdt. No. 13; Dated, 28 Mar. 68

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

Cincinnati, Ohio—Cincinnati Municipal-Lunken Field, ILS Runway 20L, Amdt 2, 4 Mar. 1967 (established under Subpart C).

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.3 miles after passing BRO VOR.
				Climbing right turn to 1500′ direct to BRO VOR and hold. Supplementary charting information: Hold NE, 1 minute, right turns, 242° Inbnd. TDZ elevation, 22′.

Procedure turn N side of crs, 062° Outbnd, 242° Inbnd, 1500′ within 10 miles of BRO VOR.
FAF, BRO VOR. Final approach crs, 242°. Distance FAF to MAP, 2.3 miles.
Minimum altitude over BRO VOR, 700′.
MSA: 000°–270°—1300′; 270°–360°—2100′.
*Night operations not authorized Runways 08-26.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–26*	340	1	318	340	1	318	340	1	318	340	1	318
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	420	1	398	480	1	458	480	1½	458	580	2	558
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Brownsville; State, Tex.; Airport name, Rio Grande Valley International; Elev., 22′; Facility, BRO; Procedure No. VOR Runway 26; Amdt. 10; Eff. date, 26 Dec. 68; Sup. Amdt. No. 9; Dated, 9 May 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CBI VOR.
HLV VORTAC	CBI VOR	Direct	2400	Climbing right turn to 2000′ on CBI VOR R 357°, return to CBI VOR. Supplementary charting information: Final approach crs intercepts runway centerline 3000′ from threshold. TDZ elevation 769′.
Wilton Int	CBI VOR	Direct	2400	
Scott Int	CBI VOR	Direct	2400	
Harrisburg Int	Brown Int (NOPT)	Direct	1240	

Procedure turn W side of crs, 357° Outbnd, 177° Inbnd, 2100′ within 10 miles of CBI VOR.
Final approach crs, 177°.
Minimum altitude over Brown Int., 1240′.
MSA: 000°–090°—2300′; 090°–180°—2800′; 180°–360°—2400′.
NOTES: (1) Threshold and boundary lights only. (2) Sliding scale not authorized.
*Night visibility minimum, 1½ mile.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S–17*	1240	1	471	1240	1	471	1240	1	471	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C*	1240	1	462	1360	1	582	1360	1½	582	NA
	Dual VOR Minimums:									
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	
S–17*	1080	1	311	1080	1	311	1080	1	311	NA
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Columbia; State, Mo.; Airport name, Municipal; Elev., 778′; Facility, CBI; Procedure No. VOR Runway 17, Amdt. 7; Eff. date, 26 Dec. 68; Sup. Amdt. No. 6; Dated, 20 July 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 18-mile DME Fix or 3.8 miles after passing Cedar Creek Int.
JEF VOR	Stephens Int	Direct	2800	Climbing left turn to 2400', return to Stephens Int.
CBI VOR	Stephens Int	Direct	2400	
Shaw Int	Stephens Int	Direct	2400	Supplementary charting information: chart holding at Stephens Int. TDZ elevation, 888'.
HLV VORTAC	Stephens Int (NOPT)	Direct	2400	

Procedure turn E side of crs, 007° Outbnd, 187° Inbnd, 2400' within 10 miles of Stephens Int.
FAF, Cedar Creek Int. Final approach crs, 187°. Distance FAF to MAP, 3.8 miles.
Minimum altitude over Stephens Int, 2400'; over Cedar Creek Int, 1700'.
MSA: 000°-090°—2300'; 090°-180°—2800'; 180°-270°—2800'; 270°-360°—2400'.
NOTES: (1) Use Columbia, Mo., altimeter setting. (2) Inoperative components table does not apply to HIRL.
$Dual VOR or VOR/DME required.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-20$	1200	1	312	1200	1	312	1200	1¼	312	1200	1½	312
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C$	1240	1	352	1340	1	452	1340	1½	452	1440	2	552
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Columbia; State, Mo.; Airport name, Columbia Regional; Elev., 888'; Facility, HLV; Procedure No. VOR Runway 20, Amdt. Orig.; Eff. date, 26 Dec. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.9 miles after passing GDM VOR TAC.
				Make climbing left turn to 3000' direct to GDM VORTAC and hold.
				Supplementary charting information: Hold W, GDM VORTAC, 1 minute, right turns, 097° Inbnd.

Procedure turn S side of crs, 277° Outbnd, 097° Inbnd, 3000' within 10 miles of GDM VORTAC.
FAF, GDM VORTAC. Final approach crs, 097°. Distance FAF to MAP, 1.9 miles.
Minimum altitude over GDM VORTAC, 2000'.
MSA: 000°-090°—4200'; 090°-180°—3100'; 180°-270°—2500'; 270°-360°—4200'.
NOTES: (1) Use Worcester altimeter setting. (2) Approach from a holding pattern not authorized. Procedure turn required.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	1660	1	705	1660	1	705	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.	

City, Gardner; State, Mass.; Airport name, Gardner Municipal; Elev., 955'; Facility, GDM; Procedure No. VOR-1, Amdt. 1; Eff. date, 26 Dec. 68; Sup. Amdt. No. VOR 1, Orig.; Dated, 3 July 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing MAI VOR.
				Turn left, climb to 2000′ to Chipley Int via MAI VOR R-270 and hold. Supplementary charting information: Hold W, 1 minute, left turns 090° Inbnd. Final approach crs intercepts runway centerline 3000′ from threshold. TDZ elevation, 107′.

Procedure turn N side of crs, 125° Outbnd, 305° Inbnd, 2000′ within 10 miles of MAI VOR.
FAF, MAI VOR. Final approach crs, 303°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over MAI VOR, 1000′.
MSA: 000°–180°—1500′; 180°–270°—2000′; 270°–360°—2500′.
NOTES: (1) Radar vectoring. (2) Use DHN FSS altimeter setting when control tower not in operation, and circling and straight-in MDA becomes 640′. (3) Night minimums authorized Runways 14–32 only.
#Authorized only when control tower in operation.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-32	520	1	413	520	1	413	520	1	413	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	560	1	447	580	1	467	580	1½	467	NA
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Marianna; State, Fla.; Airport name, Marianna Municipal; Elev., 113′; Facility, MAI; Procedure No. VOR Runway 32, Amdt. 1; Eff. date, 26 Dec. 68; Sup. Amdt. No. Orig.; Dated, 27 Apr. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.1 miles after passing Sawmill Int.
Millis Int	HTM VORTAC (NOPT)	Direct	2000	Make left-climbing turn to 2000′ direct to HTM VORTAC and hold. Supplementary charting information: Hold SW of HTM VORTAC, 1 minute, right turns, 060° Inbnd. Final approach crs to center of airport. Depict 14.1-mile DME Fix, HTM R 096° at missed approach point.

Procedure turn S side of crs, 276° Outbnd, 096° Inbnd, 2000′ within 10 miles of HTM VORTAC.
FAF, Sawmill Int/9-miles DME Fix. Final approach crs, 096°. Distance FAF to MAP, 5.1 miles.
Minimum altitude over HTM VORTAC, 2000′; over Sawmill Int/9-miles DME Fix, 1000′.
MSA: 000°–090°—1900′; 090°–180°—1600′; 180°–270°—2200′; 270°–360°—2400′.
NOTES: (1) Radar vectoring. (2) Use NAS South Weymouth altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	580	1	571	580	1	571	NA	NA
A	Not authorized.		T 2-Eng. or less—Standard.				T Over 2-Eng.—Not authorized.	

City, Marshfield; State, Mass.; Airport name, Marshfield; Elev., 9′; Facility, HTM; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 26 Dec. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.1 miles after passing NCO VOR.
Lafayette Int	NCO VOR (NOPT)	Direct	1800	Climb on NCO 125° radial to 1800′ direct to Compton Int and hold.
Coastal Int	NCO VOR	Direct	2000	
Providence VOR	Wickford Int	Direct	1800	Supplementary charting information: Hold NW of Compton Int 125° Inbnd, 1 minute, right turns. 345′ water tank 0.5 mile NE and 1049′ antenna 5.7 miles NE of airport.
Wickford Int	NCO VOR (NOPT)	Direct	1800	
Turner Int	NCO VOR	Direct	2100	

Procedure turn S side of crs, 305° Outbnd, 125° Inbnd, 1800′ within 10 miles of NCO VOR.
FAF, NCO VOR. Final approach crs, 125°. Distance FAF to MAP, 4.1 miles.
Minimum altitude over NCO VOR, 1800′.
MSA: 120°-300°—1800′; 300°-120°—2200′.
NOTES: (1) Radar vectoring. (2) Use NAS Quonset Point altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	660	1	490	660	1	490	660	1½	490	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Newport; State, R.I.; Airport name, Newport State; Elev., 170′; Facility, NCO; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 26 Dec. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 after passing RMT VORTAC.
RMT VORTAC R 354°, clockwise	RMT R 088°	RMT 10-mile DME Arc	1600	Climb to 1600′, right turn, direct to RMT VORTAC and hold.
RMT VORTAC R 196°, counterclockwise	RMT R 088°	RMT 10-mile DME Arc	1600	
10-mile DME Arc	RMT VORTAC (NOPT)	R 088°	1200	Supplementary charting information: Hold E, 1 minute, right turns, 268° Inbnd. Final approach crs to center of landing area.

Procedure turn N side of crs, 088° Outbnd, 268° Inbnd, 1600′ within 10 miles of RMT VORTAC.
FAF, RMT VORTAC. Final approach crs, 268°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over RMT VORTAC, 1200′.
MSA: 000°-090°—1700′; 090°-180°—2000′; 180°-360°—1700′.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	640	1	543	640	1	543	640	1½	543	NA
A	Standard.		T 2-eng. or less—300-1.				T over 2-eng.—300-1.			

City, Rocky Mount; State, N.C.; Airport name, Rocky Mount Municipal; Elev., 97′; Facility, RMT; Procedure No. VOR-1, Amdt. 5; Eff. date, 26 Dec. 68; Sup. Amdt. No. VOR 1, Amdt. 4; Dated, 22 Jan. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.4 miles after passing SOP VOR TAC.
R 186°, SOP VORTAC clockwise	R 266°, SOP VORTAC	10-mile DME Arc	2200	Left turn climb to 2200′ direct to SOP VORTAC and hold.
R 356°, SOP VORTAC counterclockwise	R 266°, SOP	10-mile DME Arc	2200	
10-Mile Arc	SOP VORTAC (NOPT)	SOP R 266°	2000	Supplementary charting information: Hold W, 1 minute, right turns, 077° Inbnd. Final approach crs to center of landing area.

Procedure turn S side of crs, 266° Outbnd, 086° Inbnd, 2200′ within 10 miles of SOP VORTAC.
FAF, SOP VORTAC. Final approach crs, 086°. Distance FAF to MAP, 9.4 miles.
Minimum altitude over SOP VORTAC, 2000′; over 4-mile DME Fix, 1140′.
MSA: 000°-090°—1900′; 090°-180°—1800′; 180°-270°—1800′; 270°-360°—2500′.
NOTES: (1) Use FAY altimeter setting. (2) No weather reporting.
*Standard alternate minimums authorized and MDA decreased 120′ for operators having approved weather reporting service.
$Night minimums not authorized on Runways 14/32.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C*$	1140	1	685	1140	1	685	1140	1½	685	NA
	VOR/DME:									
C*$	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
A	980	1	525	980	1	525	980	1½	525	NA
	Not authorized.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Southern Pines; State, N.C.; Airport name, Pinehurst-Southern Pines; Elev., 455′; Facility, SOP; Procedure No. VOR-1, Amdt. 5; Eff. date, 26 Dec. 68; Sup. Amdt. No. 4; Dated, 4 Mar. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.7 miles after passing LWM VOR.
Boston VOR	LWM VOR	Direct	2000	Make right-climbing turn to 2000', direct to LWM VOR and hold.
Kennebunk VOR	LWM VOR (NOPT)	Direct	2200	
Manchester VOR	LWM VOR (NOPT)	Direct	2200	Supplementary charting information: Hold SW of LWM VOR, 1 minute, right turns, 057° Inbnd.
Nashua NDB	LWM VOR	Direct	2100	
Beverly NDB	LWM VOR	Direct	2000	

Procedure turn N side of crs, 057° Outbnd, 237° Inbnd, 2000' within 10 miles of LWM VOR.
FAF, LWM VOR. Final approach crs, 224°. Distance FAF to MAP, 9.7 miles.
Minimum altitude over LWM VOR, 2000'.
MSA: 000°–090°—2600'; 090°–180°—1600'; 180°–270°—2400'; 270°–360°—2600'.
NOTES: (1) Radar vectoring. (2) Use Bedford-Hanscom altimeter setting. (3) Maintain 1500' until 5 miles SW of VOR or passing LWM NDB.
*Night minimums not authorized.
CAUTION: Power lines 20' high, 350' SW of approach end of Runway 3.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-21*	820	1	728	820	1	728	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C*	820	1	728	820	1	728	NA	NA
A	Not authorized.		T 2-eng or less—Standard.				T over 2-eng.—Not authorized.	

City, Tewksbury; State, Mass.; Airport name, TEW-MAC; Elev., 92'; Facility, LWM; Procedure No. VOR Runway 21, Amdt. 1; Eff. date, 26 Dec. 68; Sup. Amdt. No. VOR-1, Orig.; Dated, 18 June 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.9 miles after passing Railroad Int.
				Make left-climbing turn to 2600', direct to ORW VORTAC and hold. Supplementary charting information: Hold SW ORW VORTAC, 1 minute, right turns, 061° Inbnd. Final approach crs to intersection of Runways 9/27 and 6/24. Depict 13.9-mile DME Fix ORW R 338° at missed approach point.

Procedure turn E side of crs, 158° Outbnd, 338° Inbnd, 2600' within 10 miles of ORW VORTAC
FAF, Railroad Int/9-mile DME. Final approach crs, 338°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over ORW VORTAC, 2600'; over Railroad Int/9-mile DME, 1200'.
MSA: 000°–090°—2100'; 090°–180°—1800'; 180°–270°—2000'; 270°–360°—2100'.
NOTES: (1) Radar vectoring. (2) Use Bradley Field altimeter setting. (3) Night operations Runways 9/27 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	960	1	716	960	1	716	980	1½	736	NA
A	Not authorized.		T 2-eng. or less—500–1 all runways.				T over 2-eng.—500–1 all runways.			

City, Willimantic; State, Conn.; Airport name, Windham; Elev., 244'; Facility, ORW; Procedure No. VOR-1, Amdt. 2; Eff. date, 26 Dec. 68; Sup. Amdt. No. VOR 1, Amdt. 1; Dated, 24 Apr. 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.5 miles after passing 9-mile DME Fix.
15-mile DME Fix	9-mile DME Fix (NOPT)	RMT R 269° 6 miles	1700	Climb to 1600′ direct to RMT VORTAC and hold.
RMT VORTAC	9-mile DME Fix	RMT R 269°	1700	Supplementary charting information: Hold E., 1 minute, right turns, 268° Inbnd. Final approach crs to center of landing area.

Procedure turn S. side of crs, 269° Outbnd, 089° Inbnd, 1700′ within 10 miles of Rocky 9-mile DME Fix.
FAF, 9-mile DME Fix. Final approach crs, 089°. Distance FAF to MAP, 4.5 miles.
Minimum altitude over 9-mile DME Fix, 1700′; over 4.5-mile DME Fix, 680′.
MSA: 000°–090°—1700′; 090°–180°—2000′; 180°–360°—1700′.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	680	1	583	680	1	583	680	1½	583	NA
A	Standard.		T 2-eng. or less—300–1.				T over 2-eng.—300–1.			

City, Rocky Mount; State, N.C.; Airport name, Rocky Mount Municipal; Elev., 97′; Facility, RMT; Procedure No. VOR/DME–1, Amdt. 2; Eff. date, 26 Dec. 68; Sup. Amdt. No. 1; Dated, 23 Dec. 67

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.1 miles after passing BR LOM.
HRL VOR	LOM (NOPT)	Direct	1500	Climbing left turn to 1500′ direct to BR LOM and hold.
Rio Hondo Int	LOM	Direct	1500	Supplementary charting information: Hold NW, 1 minute, left turns, 127° Inbnd. TDZ elevation, 17′.
Fresnos Int	LOM	Direct	1500	
BRO VOR	LOM	Direct	1500	

Procedure turn N side of crs, 307° Outbnd, 127° Inbnd, 1500′ within 10 miles of BR LOM.
FAF, BR LOM. Final approach crs, 127°. Distance FAF to MAP, 6.1 miles.
Minimum altitude over BR LOM, 1500′.
MSA: 000°–270°—1300′; 270°–360°—2100′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
8–13R	340	1	323	340	1	323	340	1	323	340	1	323
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	420	1	398	480	1	458	480	1½	458	580	2	558
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Brownsville; State, Tex.; Airport name, Rio Grande Valley International; Elev., 22′; Facility, I–BRO; Procedure No. LOC Runway 13R, Amdt. Orig.; Eff. date, 26 Dec. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.7 miles after passing GLU NDB.
Augusta VOR	GLU NDB	Direct	2500	Climb straight ahead on 042° to 1500'. Make right-climbing turn to 2500' direct to GLU NDB and hold.
Portland LOM	GLU NDB	Direct	2500	
Hiram Int	GLU NDB	Direct	3500	
Freeport Int	GLU NDB	Direct	2500	Supplementary charting information: Hold SW, GLU NDB 042° Inbnd, 1 minute, right turns. TDZ elevation, 271'.

Procedure turn E side of crs, 222° Outbnd, 042° Inbnd, 2500' within 10 miles of GLU NDB.
FAF, GLU NDB. Final approach crs, 042°. Distance FAF to MAP, 3.7 miles.
Minimum altitude over GLU NDB, 1400'.
MSA: 000°–090°—3500'; 090°–180°—1800'; 180°–270°—3600'; 270°–360°—3600'.
NOTES: (1) Use Portland altimeter setting. (2) Approach from a holding pattern not authorized. Procedure turn required. (3) Facility must be monitored aurally during approach.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-4	980	1	709	980	1	709	980	1¼	709	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	980	1	688	1020	1	728	1020	1½	728	NA
A	Not authorized.		T 2-eng. or less—300–1 days; 400–1 night.				T over 2-eng.—300–1 days; 400–1 night.			

City, Auburn; State, Maine; Airport name, Auburn-Lewiston Municipal; Elev., 292'; Facility, GLU; Procedure No. NDB (ADF) Runway 4, Amdt. 1; Eff. date, 26 Dec. 68; Sup. Amdt. No. ADF 2, Orig.; Dated, 7 May 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.1 miles after passing BR LOM.
HRL VOR	BR LOM (NOPT)	Direct	1500	Climbing left turn to 1500' direct to BR LOM and hold.
Rio Hondo Int	BR LOM	Direct	1500	
Fresnos Int	BR LOM	Direct	1500	Supplementary charting information: Hold NW, 1 minute, left turns, 127° Inbnd. TDZ elevation, 17'.
BRO VOR	BR LOM	Direct	1500	

Procedure turn N side of crs, 307° Outbnd, 127° Inbnd, 1500' within 10 miles of BR LOM.
FAF, BR LOM. Final approach crs, 127°. Distance FAF to MAP, 6.1 miles.
Minimum altitude over BR LOM, 1500'.
MSA: 000°–270°—1300'; 270°–360°—2100'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	Hat	MDA	VIS	HAT
S-13R	480	1	463	480	1	463	480	1	463	480	1	463
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	480	1	458	480	1	458	480	1½	458	580	2	558
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Brownsville; State, Tex.; Airport name, Rio Grande Valley International; Elev., 22'; Facility, BR; Procedure No. NDB (ADF) Runway 13R, Amdt. Orig.; Eff. date, 26 Dec. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes— From—	To—	Via	Minimum altitudes (feet)	Missed approach MAP: 7.2 miles after passing Madeira NDB.
Mason Int	Madeira NDB (NOPT)	DR 275°, and MDE bearing 021°.	2700	Climb to 2700′ to California Int on heading 201° to intercept CVG VOR R 105°. Proceed to California Int and hold.
Hamilton Int	Madeira NDB	Direct	2700	
CVG VORTAC	Madeira NDB	Direct	2700	Supplementary charting information: Hold E, 1 minute, left turns, 285° inbnd. TDZ elevation, 475°.
Scott DME Int	Madeira NDB	Direct	2700	

Procedure turn E side of crs, 021° Outbnd, 201° Inbnd, 2700′ within 10 miles of Madeira NDB.
FAF, MDE NDB. Final approach crs, 201°. Distance FAF to MAP, 7.2 miles.
Minimum altitude over MDE NDB, 2700′; over OM, 1600′.
MSA: 000°–090°—2600′; 090°–180°—2200′; 180°–270°—2800′; 270°–360°—2600′.
NOTE: Radar vectoring.
%IFR departure procedures: Runway 2R, climb on N crs LUK LOC through 1000′ before proceeding as cleared. Runway 6, climb via direct LUK RBN through 1000′ before proceeding as cleared. Runway 20L, climb on S crs LUK LOC through 1100′ before proceeding as cleared. This departure requires a minimum rate of climb of 370′ per mile.
CAUTION: 1031′ tower 1.6 miles S of airport.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-20L	1600	1½	1125	1600	1¾	1125	1600	2	1125	1600	2¼	1125
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1600	1½	1112	1600	1¾	1112	1600	2	1112	1600	2¼	1112
	OM Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-20L	1180	1	705	1180	1	705	1180	1¼	705	1180	1½	705
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1240	1	752	1340	1¼	852	1340	1½	852	1340	2	852
A	1200–3.		T 2-eng. or less—Standard Runways 2R, 6; Runway 20L, 400–1; all others, 600–1.				T over 2-eng.—Standard Runways 2R, 6; Runway 20L, 400–1; all others, 600–1.					

City, Cincinnati; State, Ohio; Airport name, Cincinnati Municipal-Lunken Field; Elev., 488′; Facility, MDE; Procedure No. NDB (ADF) Runway 20L, Amdt. 3; Eff. date, 26 Dec, 68; Sup. Amdt. No. 2; Dated, 4 Mar. 67

Terminal routes From—	To—	Via	Minimum altitudes (feet)	Missed approach MAP: 4.5 miles after passing LUK NDB.
Mason Int	LUK NDB (NOPT)	Direct	1900	Climb to 2700′ to California Int on heading 201° to intercept CVG VOR R 105; proceed to California Int and hold.
Hamilton Int	LUK NDB	Direct	2700	
CVG VORTAC	LUK NDB	Direct	2700	Supplementary charting information: Hold E, 1 minute, left turns, 285° Inbnd. Runway 20L TDZ elevation, 475′. Runway 24 TDZ elevation, 477′.

Procedure turn W side of crs, 044° Outbnd, 224° Inbnd, 2600′ within 10 miles of LUK NDB.
FAF, LUK NDB. Final approach crs Runway 20L, 227°; Runway 24, 227°. Distance FAF to MAP Runway 20L, 4.5 miles; Runway 24, 4.4 miles.
Minimum altitude over LUK NDB, 1900′.
MSA: 030°–120°—2200′; 120°–210°—2300′; 210°–300°—2800′; 300°–030°—2600′.
NOTE: Radar vectoring.
%IFR departure procedures: Runway 2R, climb on N crs LUK LOC through 1000′ before proceeding as cleared. Runway 6, climb via direct LUK RBN through 1000′ before proceeding as cleared. Runway 20L, climb on S crs LUK LOC through 1100′ before proceeding as cleared. This departure requires a minimum rate of climb of 370′ per mile.
CAUTION: 1031′ tower 1.6 miles S of airport.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-20L	1300	1	825	1300	1¼	825	1300	1½	825	1300	1¾	825
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-24	1300	1	823	1300	1¼	823	1300	1½	823	1300	1¾	823
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1300	1	812	1340	1¼	852	1340	1½	852	1340	2	852
A	900–2.		T 2-eng. or less—Standard Runways 2R, 6; Runways 20L, 400–1; all others, 600–1.				T over 2-eng.—Standard Runways 2R, 6; Runways 20L, 400–1; all others 600–1.					

City, Cincinnati; State, Ohio; Airport name, Cincinnati Municipal-Lunken Field; Elev., 488′; Facility, LUK; Procedure No. NDB (ADF)-2 Runways 20L and 24, Amdt. 2; Eff. date, 26 Dec. 68; Sup. Amdt. No. NDB (ADF) 2, Runways 20L and 24, Amdt. 1; Dated, 6 May 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: Easton RBN.
Grasonville Int	Easton RBN	Direct	1800	Make climbing right turn to 1600' direct to the Easton RBN and hold.
Choptank Int	Easton RBN	Direct	1800	
Ridgley Int	Easton RBN	Direct	1800	Supplementary charting information: Hold NE of Easton RBN, 1 minute, right turns, 226° Inbnd.

Procedure turn N side of crs, 046° Outbnd, 226° Inbnd, 1600' within 10 miles of Easton RBN.
Final approach crs, 226°.
Minimum altitude over Easton RBN, 940'.
MSA: 000°–090°—1500'; 090°–180°—1500'; 180–270°—1400'; 260°–360°—1900'.
NOTE: Use Baltimore, Md., altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S–22	940	1	865	940	1¼	865	940	1½	865	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	940	1	865	940	1¼	865	940	1½	865	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Easton; State, Md.; Airport name, Easton Municipal; Elev., 75'; Facility, ESN; Procedure No. NDB (ADF) Runway 22, Amdt Orig.; Eff. date, 26 Dec. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.7 miles after passing LYS NDB.
Valley Int	LYS NDB	Direct	4200	Climb to 3700', left turn to LYS NDB and hold.
Wellsville VOR	LYS NDB	Direct	4200	Supplementary charting information: Hold NE of LYS NDB, 1 minute, left turns, 221° Inbnd. Higher terrain adjacent to airport SE, SW, and NE.

Procedure turn E side of crs, 041° Outbnd, 221° Inbnd, 3700' within 10 miles of LYS NDB.
FAF, LYS NDB. Final approach crs, 221°. Distance FAF to MAP, 2.7 miles.
Minimum altitude over LYS NDB, 2900'.
MSA: 000°–090°—3500'; 090°–180°—3800'; 180°–270°—3600'; 270°–360°—3900'.
NOTE: Check current publications for facility hours of operation.
*Alternate minimums only authorized to those operators with approved weather service.
**When local approved altimeter setting not available use Bradford FSS altimeter and increase circling and straight-in MDA 125'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S–22**	2600	1	463	2600	1	463	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C**	2600	1	463	2600	1	463	NA	NA
A	Standard.*		T 2-eng. or less—200–1 required all runways.				T over 2-eng.—200–1 required all runways.	

City, Olean; State, N.Y.; Airport name, Olean Municipal; Elev., 2137'; Facility, LYS MHW; Procedure No. NDB (ADF) Runway 22, Amdt. 6; Eff. date, 26 Dec. 68; Sup. Amdt. No. ADF 1, Amdt. 5; Dated, 30 Apr. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing PSF NDB.
Chester VOR	PSF NDB	Direct	4000	Make right-climbing turn to 4000'. Return to PSF NDB and hold.
Stockbridge Int	PSF NDB	Direct	4000	
Hillsdale Int	PSF NDB	Direct	4000	Supplementary charting information: Hold E PSF NDB, 253° Inbnd, 1 minute, left turns. Final approach crs to center of airport. 1325' antenna 1 mile N and 2126' terrain 1.7 miles SW of airport.
Canaan Int	PSF NDB	Direct	4000	
Griswoldville Int	PSF NDB	Direct	4000	

Procedure turn S side of crs, 073° Outbnd, 253° Inbnd, 4000' within 10 miles of PSF NDB.
FAF, PSF NDB. Final approach crs, 253°. Distance FAF to MAP, 5 miles.
Minimum altitude over PSF NDB, 3000'.
MSA: 000°-090°—4700'; 090°-180°—3600'; 180°-270°—3700'; 270°-360°—4700'.
NOTES: (1) Approach from a holding pattern not authorized. Procedure turn required. (2) Facility must be monitored aurally during approach.
*Circling MDA increased 120' and alternate minimums not authorized when altimeter setting not available from PSF Weather Bureau. Use Albany altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C*	2160	1¼	990	2160	1½	990	2440	2¼	1270	NA
A	Categories A and B 1200-2; Category C 1500-2.*		T 2-eng. or less—1000-1.				T over 2-eng.—1300-2.			

City, Pittsfield; State, Mass.; Airport name, Pittsfield Municipal; Elev., 1170'; Facility, PSF; Procedure No. NDB (ADF)-1, Amdt. 2; Eff. date, 26 Dec. 68; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 9 Oct. 65

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: SKV NDB.
ABY VORTAC	SYV NDB	Direct	2400	Climbing right turn to 2400' direct to SYV NDB and hold.
Sale Int	SYV NDB	Direct	2400	
DeSoto Int	SYV NDB	Direct	2400	Supplementary charting information: Final approach crs intercepts runway centerline 3000' from threshold. Hold N, 1 minute, left turns, 193° inbnd. TDZ elevation, 404'.

Procedure turn E side of crs, 193° Outbnd, 013° Inbnd, 2400' within 10 miles of SYV NDB.
Final approach crs, 013°.
MSA: 000°-090°—1700'; 090°-180°—2400'; 180°-270°—2500'; 270°-360°—1600'.
NOTES: (1) Radar vectoring. (2) Use Albany, Ga., FSS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-1	1120	1	716	1120	1	716	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1120	1	716	1120	1	716	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Sylvester; State, Ga.; Airport name, Sylvester-Worth County; Elev., 404'; Facility, SYV; Procedure No. NDB (ADF) Runway 1, Amdt. Orig.; Eff. date, 26 Dec. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altidues (feet)	MAP: 4.7 miles after passing LWM NDB.
Boston VOR	LWM NDB	Direct	2000	Make left-climbing turn to 1900′ direct to LWM NDB and hold.
Lawrence VOR	LWM NDB (NOPT)	Direct	1600	
Nashua NDB	LWM NDB	Direct	2100	Supplementary charting information: Hold SW of LWM NDB, 051° Inbnd, 1 minute, right turns, 480′ antenna 1 mile WNW of LWM NDB.
Beverly NDB	LWM NDB	Direct	2000	
Bedford NDB	LWM NDB	Direct	2000	

Procedure turn E side of crs, 034° Outbnd, 214° Inbnd, 1900′ within 10 miles of LWM NDB.
FAF, LWM NDB. Final approach crs, 214°. Distance FAF to MAP, 4.7 miles.
Minimum altitude over LWM NDB, 1600′.
MSA: 000°–090°—2100′; 090°–180°—1900′; 180°–270°—2400′; 270°–360°—2600′.

NOTES: (1) Radar vectoring. (2) Use Bedford-Hanscom altimeter setting. (3) Facility must be monitored aurally during approach.

*Night minimums not authorized.

CAUTION: Power lines 20′ high, 350′ SW of approach end of runway 3.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S–21*	640	1	548	640	1	548	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C*	640	1	548	640	1	548	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Tewksbury; State, Mass.; Airport name, TEW-MAC; Elev., 92′; Facility, LWM; Procedure No. NDB (ADF) Runway 21, Amdt. Orig.; Eff. date, 26 Dec. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.5 miles after passing SPA NDB.
SPA VORTAC	SPA NDB	Direct	2400	Climb to 3000′ direct to SPA VORTAC and hold. Supplementary charting information: Hold N, 1 minute, right turns, 195° Inbnd.

Procedure turn S side of crs, 238° Outbnd, 058° Inbnd, 2400′ within 10 miles of SPA NDB.
FAF, SPA NDB. Final approach crs, 058°. Distance FAF to MAP, 1.5 miles.
Minimum altitude over SPA NDB, 1600′.
MSA: 000°–090°—3700′; 090°–180°—2100′; 180°–270°—4200′; 270°–360°—6000′.
NOTES: (1) Use GSP altimeter setting when control zone not effective and circling MDA increased 40′. (2) Radar vectoring.
#Alternate minimums not authorized when control zone not effective.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1280	1	464	1280	1	464	1280	1½	464	1380	2	564
A	Standard.#		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Spartanburg; State, S.C.; Airport name, Spartanburg Downtown Memorial; Elev., 816′; Facility, SPA; Procedure No. NDB (ADF)-1, Amdt. 2; Eff. date, 26 Dec. 68; Sup. Amdt. No. NDB (ADF) Runway 4, Amdt. 1; Dated, 14 Nov. 68

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 725'; LOC 7.2 miles after passing Madeira NDB.
Mason Int	Madeira NDB (NOPT)	DR 275° and N crs LUK LOC	2700	Climb to 2700' to California Int via LUK LOC crs and CVG VOR R 105° and hold.
Hamilton Int	Madeira NDB	Direct	2700	
CVG VORTAC	Madeira NDB	Direct	2700	Supplementary charting information: Hold E, 1 minute, left turns, 285° Inbnd. TDZ elevation, 475'.
Scott DME Int	Madeira NDB	Direct	2700	

Procedure turn E side of crs, 021° Outbnd, 201° Inbnd, 2700' within 10 miles of Madeira NDB.
FAF, Madeira NDB. Final approach crs, 201°. Distance FAF to MAP, 7.2 miles.
Minimum altitude over Madeira NDB, 2700'.
Minimum glide slope interception altitude, 2700'. Glide slope altitude at OM, 1601'; at MM, 681'.
Distance to runway threshold at OM, 3.4 miles; at MM, 0.5 mile.
MSA: 000°-090°—2600'; 090°-180°—2200'; 180°-270°—2800'; 270°-360°—2600'.

NOTE: Radar vectoring.

%IFR departure procedures: Runway 2R, climb on N crs LUK LOC through 1000' before proceeding as cleared. Runway 6, climb via direct LUK RBN through 1000' before proceeding as cleared. Runway 20L, climb on S crs LUK LOC through 1100' before proceeding as cleared. This departure requires a minimum rate of climb of 370' per mile.

CAUTION: 1031' tower 1.6 miles S of airport.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-20L	725	1	250	725	1	250	725	1	250	725	1	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-20L	1000	1	525	1000	1	525	1000	1	525	1000	1¼	525
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1240	1	752	1340	1¼	852	1340	1½	852	1340	2	852
A	900-2.			T 2-eng. or less—Standard Runways 2R, 6; Runway 20L, 400-1; all others, 600-1.%			T over 2-eng.—Standard Runways 2R, 6; Runway 20L, 400-1; all others 600-1.%					

City, Cincinnati; State, Ohio; Airport name, Cincinnati Municipal-Lunken Field; Elev., 488'; Facility, I-LUK; Procedure No. ILS Runway 20L, Amdt. 3; Eff. date, 26 Dec. 68; Sup. Amdt. No. 2; Dated, 4 Mar. 67

These procedures shall become effective on the dates specified therein.

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

Issued in Washington, D.C., on November 19, 1968.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 68-14170; Filed, Dec. 9, 1968; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR DRY BEAN CROP INSURANCE

Correction

In F.R. Doc. 68-14060 appearing at page 17301 in the issue of Friday, November 22, 1968, the entry for "Canyon, Idaho" in the table should have a footnote 1 designation following the entry under "Class of dry beans insured".

[Amdt. 27]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CANNING AND FREEZING PEA ENDORSEMENT (APPLICABLE IN ALL STATES EXCEPT MINNESOTA AND WISCONSIN)

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1969 crop year in the following respects:

1. The portion of the table following paragraph (a) of § 401.103 of this chapter under the heading "Canning and Freezing Peas" is amended effective beginning with the 1969 crop year to read as follows:

§ 401.103 Application for insurance.

(a) * * *

(CLOSING DATES)

CANNING AND FREEZING PEAS

Minnesota and Wisconsin	Apr. 15
Utah	Mar. 31
Idaho:	
Caribou and Franklin Counties	Mar. 31
All other Idaho counties	Mar. 1
All other States	Mar. 1

2. The following section is added:

§ 401.147 The canning and freezing pea endorsement (applicable in all States except Minnesota and Wisconsin).

The provisions of the canning and freezing pea endorsement (applicable in all States except Minnesota and Wisconsin) for the 1969 and succeeding crop years are as follows:

1. *Causes of loss.* In addition to the causes of loss not insured against enumerated in section 1(b) of the policy, the contract shall not cover any loss due to failure to timely harvest and market any insured acreage as

green peas unless the Corporation determines that such failure is due to an insurable cause.

2. *Insured crop.* The crop insured shall be canning and freezing peas grown under a contract with a processor executed by the time the acreage to be insured is reported. Insurance shall not attach on any acreage of peas which is not grown under such contract nor on any acreage excluded from such contract for the crop year pursuant to the terms thereof.

3. *Insurance period.* Insurance on any insured acreage shall attach at the time the peas are planted and shall cease on final adjustment of a loss, vining, combining, or removal from the field, whichever occurs first, but in no event shall insurance remain in effect later than the applicable date set forth below of the calendar year in which the peas are normally harvested: *Provided, however,* That if by the expiration of the period for timely harvesting, as determined by the Corporation, any acreage remains unharvested, insurance shall cease on such acreage.

Caribou County	August 15
Franklin County	July 31
All other Idaho counties	September 30
Utah	July 31
All other States	September 30

4. *Notice of loss or substantial damage.* In addition to the notices required in section 8 of the policy, the following shall apply: If for any insurance unit (hereinafter called "unit") the insured at the time of normal harvest does not expect to harvest any part of the insured crop or if harvesting or vining is discontinued on or for any acreage before the entire acreage on the unit is harvested or vined for green peas, written notice to the Corporation at the office for the county shall be given immediately, within 48 hours,

5. *Claims for loss.* (a) Any claim for loss on a unit shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of canning and freezing peas on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in (3) by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all peas which could have been harvested or vined as green peas and the production from harvested acreage as defined in section 6(b) hereof, and any appraisals made by the Corporation for poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage of peas (1) which is not harvested as green peas shall not be less than the production guarantee for such acreage unless the Corporation determines that such acreage was not harvested due to damage from an insured cause and has the opportunity to make a timely appraisal of the potential production of green peas; (2) which is not harvested nor considered as harvested due to an insured cause within the meaning of the term "harvested" shall be not less than 25 percent of the production guarantee for such acreage, except as to acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the production guarantee provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the production guarantee provided for such acreage.

(d) Notwithstanding the provisions of paragraph (c) of this section for determining production to be counted, all production to be counted shall be adjusted to the pound equivalent of the quality guarantee shown on the actuarial table by relating the processor contract price for the quality of the actual or appraised production to the processor contract price for the production of the quality guaranteed: *Provided, however,* That for any peas not timely harvested the production to be counted shall be determined on the basis of the applicable contract price for green peas of like quality had the peas been timely harvested and accepted by the processor. (The total value used to determine the production to count shall never be less than the greater of the following: (i) The value at the price obtained for the last lot of peas accepted by the processor before harvesting or vining was discontinued on or for the unit, (ii) the value as dry peas, actual or appraised, under the processor contract, or (iii) the fair market value of the dry peas, actual or appraised, except that item (i) shall not be applicable for peas not timely harvested or vined because of an insured cause.)

6. *Meaning of terms.* For the purpose of insurance on canning and freezing peas in all States except Minnesota and Wisconsin the terms:

(a) "Insurance unit" notwithstanding the first sentence of section 19(e) of the policy, means all the insurable acreage of canning and freezing peas in the county at the time of planting of any one of the insured types as shown on the actuarial table (1) in which the insured has a 100 percent interest, (2) which is owned by one person and operated by the insured as a tenant, or (3) which is owned by the insured and rented to one tenant.

(b) "Harvest", "harvested", or "harvesting" as to any acreage means the cutting of the vines for vining or combining of at least 25 percent of the production guarantee per acre of green peas established by the Corporation by area, classification, or other designation for the insured acreage and shown on the actuarial table.

(c) "Vining" or "combining" means separating the green peas from the pods.

7. *Cancellation and termination for indebtedness dates.* For each year of the contract, the cancellation date and termination date for indebtedness are the following applicable dates immediately preceding the beginning of the crop year for which the cancellation or termination is to become effective:

State and county	Cancellation date	Termination date for indebtedness
Utah	December 31	March 31.
Idaho:		
Caribou and Franklin Counties.	do	Do.
All other Idaho counties.	do	March 1.
All other States	do	Do.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on November 25, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary, Federal Crop Insurance Corporation.

Approved on December 5, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-14698; Filed, Dec. 9, 1968; 8:47 a.m.]

[Amdt. 26]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CANNING AND FREEZING PEA ENDORSEMENT (APPLICABLE ONLY IN MINNESOTA AND WISCONSIN)

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended effective beginning with the 1969 crop year in the following respects:

The following section is added:

§ 401.146 The canning and freezing pea endorsement (applicable only in Minnesota and Wisconsin).

The provisions of the canning and freezing pea endorsement (applicable only in Minnesota and Wisconsin) for the 1969 and succeeding crop years are as follows:

1. *Causes of loss.* In addition to the causes of loss not insured against enumerated in section 1(b) of the policy, the contract shall not cover any loss due to failure to timely harvest and market any insured acreage as green peas unless the Corporation determines that such failure is due to an insurable cause.

2. *Insured crop.* The crop insured shall be canning and freezing peas grown under a contract with a processor executed by the time the acreage to be insured is reported. Insurance shall not attach on any acreage of peas which is not grown under such contract nor on any acreage excluded from such contract for the crop year pursuant to the terms thereof. An instrument in the form of a "lease" under which the insured grower retains possession of the land on which the insured crop is grown and which provides for delivery of the insured crop under certain conditions and at a stipulated price(s) shall for the purpose of this contract be treated as a processor contract under which the insured has the interest in the crop.

3. *Amount of insurance per acre.* The amount of insurance per acre for each crop year shall be the applicable pounds per acre of peas established by the Corporation by

area, classification, or other designation for the insured acreage and shown on the county actuarial table (hereinafter called "actuarial table") multiplied by the applicable processor contract price per pound for the tenderometer reading specified on the actuarial table without regard to any premium, bonus, or discount.

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the peas are planted and shall cease on final adjustment of a loss, vining, combining, or removal from the field, whichever occurs first, but in no event shall insurance remain in effect later than the August 10 of the calendar year in which the peas are normally harvested: *Provided, however,* That if by the expiration of the period for timely harvesting, as determined by the Corporation, any acreage remains unharvested, insurance shall cease on such acreage.

5. *Notice of loss or substantial damage.* In addition to the notices required in section 8 of the policy, the following shall apply: If for any insurance unit (hereinafter called "unit") the insured at the time of normal harvest does not expect to harvest any part of the insured crop or if harvesting or vining is discontinued on or for any acreage before the entire acreage on the unit is harvested or vined for green peas, written notice to the Corporation at the office for the county shall be given immediately, within 48 hours.

6. *Claims for loss.* (a) Any claim for loss on a unit shall be submitted to the Corporation, on a form prescribed by the Corporation, within 30 days after the amount of loss has been determined by the Corporation.

(b) It shall be a condition precedent to the payment of any loss that the insured establish the production of the insured crop on the unit and that such loss has been directly caused by one or more of the hazards insured against during the insurance period for the crop year for which the loss is claimed, and furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of canning and freezing peas on the unit by the applicable amount of insurance per acre, which product shall be the amount of insurance for the unit, (2) subtracting therefrom the value (determined in accordance with subsection (d) of this section) of the total production to be counted for the unit, and (3) multiplying the remainder by the insured interest: *Provided,* That if for the unit the insured fails to report all of his interest or insurable acreage, the amount of loss shall be determined with respect to all of his interest and insurable acreage, but in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest, or the acreage and interest when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

The value of the total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include the value of all peas which could have been harvested or vined as green peas and the value of all production from harvested acreage as defined in section 7(b) hereof, and the value of any appraisals made by the Corporation for poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the value of the total production to be counted on any acreage of peas (1) which is not harvested as green peas shall not be less than the amount of insurance for such acreage unless the Corporation determines that such acreage was not harvested due to damage from an insured cause and has the opportunity to make a timely appraisal of the potential production of green peas; (2) which is not harvested or considered as harvested due to an insured cause within the meaning of the term "harvested" shall be not less than 25 percent of the amount of insurance for such acreage, except as to acreage referred to in the following items (3) and (4); (3) which is abandoned or put to another use without prior written consent of the Corporation shall be the amount of insurance provided for such acreage; or (4) which is damaged solely by an uninsured cause shall be not less than the amount of insurance provided for such acreage.

(d) In determining any loss under the contract, production shall be valued as follows: (1) Any green peas timely vined or combined shall be valued at the applicable processor contract price per pound, as determined by the Corporation. (2) Any peas not timely vined or combined shall be valued at the applicable processor contract price per pound for green peas of like quality had the peas been timely vined or combined and accepted by the processor, except that the total value shall not be less than the greater of the following: (i) The value at the price obtained for the last lot of peas accepted by the processor before harvesting or vining was discontinued on or for the unit, (ii) the value as dry peas, actual or appraised, under the processor contract, or (iii) the fair market value of the dry peas, actual or appraised, except that item (i) shall not be applicable for peas not timely harvested or vined because of an insured cause. (3) Any appraisals of production made for poor farming practices or uninsured causes of loss shall be valued at the applicable processor contract price per pound used in computing the amount of insurance per acre.

7. *Meaning of terms.* For the purposes of insurance on canning and freezing peas in Minnesota and Wisconsin the terms:

(a) "Insurance unit" notwithstanding the first sentences of section 19(e) of the policy, means all the insurable acreage of canning and freezing peas in the county at the time of planting of any one of the insured types as shown on the actuarial table (1) in which the insured has a 100 percent interest, (2) which is owned by one person and operated by the insured as a tenant, or (3) which is owned by the insured and rented to one tenant.

(b) "Harvest," "harvested," or "harvesting" as to any acreage means the cutting of the vines for vining or combining of at least 25 percent of the applicable pounds per acre of green peas established by the Corporation by area, classification, or other designation for the insured acreage and shown on the actuarial table.

(c) "Vining" or "combining" means separating the green peas from the pods.

8. *Cancellation and termination for indebtedness dates.* For each crop year of the contract the cancellation date shall be the December 31 and the termination date for indebtedness shall be the April 15 immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on November 25, 1968.

[SEAL] EARLL H. NIKKEL,
Secretary, Federal Crop Insurance Corporation.

DECEMBER 5, 1968.
JOHN A. SCHNITTKER,
Under Secretary.

[F.R. Doc. 68-14699; Filed, Dec. 9, 1968; 8:47 a.m.]

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

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

Expenses and Rate of Assessment and Carryover of Unexpended Funds

On November 19, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 17145) regarding proposed expenses and the proposed rate of assessment for the fiscal period August 1, 1968, through July 31, 1969, and approval of carryover of unexpended assessment funds from the fiscal period August 1, 1967, through July 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Texas Valley Citrus Committee (established pursuant to the said amended marketing agreement and order), it is hereby found and determined that:

§ 906.208 Expenses and rate of assessment and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1968, through July 31, 1969, will amount to $540,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 906.34, is fixed at $0.045 per 7/10-bushel carton, or equivalent quantity of oranges and grapefruit.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended July 31, 1968, shall be carried over as a reserve in accordance with the applicable provisions of § 906.35(a)(2) of said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5

U.S.C. 553) in that (1) shipments of oranges and grapefruit are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit from the beginning of such period; and (3) the current fiscal period began on August 1, 1968, and the rate of assessment herein fixed will automatically apply to all assessable oranges and grapefruit beginning with such date.

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

Dated: December 5, 1968.

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

[F.R. Doc. 68–14730; Filed, Dec. 9, 1968; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 74—SCABIES IN SHEEP

Interstate Movement

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126) Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, is hereby further amended in the following respects:

1. Subparagraph (4) of § 74.2(a) is amended to read as follows:

§ 74.2 Designation of free and infected areas.

(a) * * *

* * * * *

(4) All counties in Kentucky except Christian, Muhlenberg, and Ohio.

* * * * *

2. Subparagraph (3) of § 74.3(a) is amended to read as follows:

§ 74.3 Designation of eradication areas.

(a) * * *

* * * * *

(3) The following counties in Kentucky: Christian, Muhlenberg, and Ohio.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, as amended, 1265, as amended, 76 Stat. 129–132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134–134h; 29 F.R. 16210, as amended)

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

The amendment adds Muhlenberg and Ohio Counties, in Kentucky, to the list of infected and eradication areas and deletes such counties from the list of free areas due to the presence of sheep scabies therein. After the effective date of this amendment, the restrictions pertaining to the interstate movement of sheep from or into infected and eradication areas as contained in 9 CFR Part 74, as amended, will apply to such areas.

The amendment imposes certain restrictions on the interstate movement of sheep from Muhlenberg and Ohio Counties, in Kentucky, for the purpose of preventing the spread of scabies, a communicable disease of sheep, and must be made effective immediately in order to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment is impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of December 1968.

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

[F.R. Doc. 68–14697; Filed, Dec. 9, 1968; 8:47 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 1]

PART 119—ECONOMIC OPPORTUNITY LOANS

GENERAL

Sec.
119.1 Statutory provisions
119.2 Program objectives
119.11 Definitions

ECONOMIC OPPORTUNITY LOANS

119.21 Eligibility
119.31 Terms and conditions
119.41 Participation
119.51 Credit requirements
119.61 Application procedure
119.71 Applicability of other SBA regulations
119.81 Technical assistance and management training
119.91 Evaluation

AUTHORITY: The provisions of this Part 119 are issued under title IV of the Economic Opportunity Act, as amended, 78 Stat. 526–7; 42 U.S.C. 2901, et seq.

GENERAL

§ 119.1 Statutory provisions.

STATEMENT OF PURPOSE

SEC. 401. It is the purpose of this title to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals, or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.

LOANS, PARTICIPATIONS, AND GUARANTIES

SEC. 402. (a) The Administrator of the Small Business Administration is authorized to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than 15 years, to any small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and regulations issued thereunder), or to any qualified person seeking to establish such a concern, when he determines that such loans will assist in carrying out the purposes of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $25,000. The Administrator of the Small Business Administration may defer payments on the principal of such loans for a grace period and use such other methods as he deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administrator of the Small Business Administration may, in his discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administrator of the Small Business Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency. The Administrator of the Small Business Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guaranties, participations in loans, and pooling arrangements authorized by this section.

(b) To the extent necessary or appropriate to carry out the programs provided for in this title the Administrator of the Small Business Administration shall have the same powers as are conferred upon the Director by section 602 of this Act. To insure an equitable distribution between urban and rural areas for loans between $3,500 and $25,000 made under this title, the Administrator is authorized to use the agencies and agreements and delegations developed under title III of the Act as he shall determine necessary.

(c) The Administrator shall provide for the continuing evaluation of programs under this section, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 608.

LOAN TERMS AND CONDITIONS

SEC. 403. Loans made pursuant to section 402 (including immediate participation in and guaranties of such loans) shall have such terms and conditions as the Administrator of the Small Business Administration shall determine, subject to the following limitations—

(a) There is reasonable assurance of repayment of the loan;

(b) The financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State or local programs;

(c) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(d) The loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, if any, toward covering other costs of the program as the Administrator of the Small Business Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Area Redevelopment Act (42 U.S.C. 2501 et seq.) shall not exceed the rate currently applicable to new loans made under section 6 of that Act (42 U.S.C. 2505); and

(e) Fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guaranties.

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 404. The Administrator of the Small Business Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this part are allotted to small business concerns located in urban areas identified by the Director, after consideration of any recommendations of the Administrator of the Small Business Administration, as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individual. The Administrator of the small Business Administration, after consideration of any recommendations of the Director, shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this part, and such definition need not correspond to the definition of low income as used elsewhere in this Act.

LIMITATION ON FINANCIAL ASSISTANCE

SEC. 405. No financial assistance shall be extended pursuant to this title where the Administrator of the Small Business Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

§ 119.2 Program objectives.

(a) The principal purpose of the Economic Opportunity Loan Program is to make funds available on reasonable terms and maturities to small business concerns located in areas with high proportions of unemployment or low-income individuals, or small business concerns owned by or to be established by persons with low incomes; and to provide management assistance to such persons.

(b) Particular emphasis will be placed on the preservation or establishment of small business concerns located in urban and rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals or those, who due to social or economic disadvantage, have been denied the opportunity to acquire adequate business financing through normal lending channels on reasonable terms. At least 50 percent of these loans will be made in each fiscal year in certain designated urban areas and to low-income individuals in urban or rural areas.

(c) Although certain of the credit standards used in the regular business loan program have been modified for the Economic Opportunity Loan Program, there must be a reasonable assurance of repayment. The maximum participation of the private business community in all phases of this program is to be encouraged. The program shall be administered to promote and facilitate this private participation.

§ 119.11 Definitions.

For purposes of this part:

(a) "Director" means the Director, Office of Economic Opportunity.

(b) "Administrator" means the Administrator of the Small Business Administration.

(c) "SBA" means the Small Business Administration.

(d) "Small-business concern" means a business concern which would qualify as a small business under § 121.3–10 of this chapter.

(e) The "Act" means the Economic Opportunity Act of 1964, as amended.

(f) "Economic Opportunity Loans" (EOL) means a loan authorized under section 402(a) of the Economic Opportunity Act of 1964, as amended.

ECONOMIC OPPORTUNITY LOANS

§ 119.21 Eligibility.

(a) In order to be eligible to apply for an EOL, a business must qualify under Parts 120 and 121 of this chapter, except where inconsistent with specific provisions in this part.

(b) The applicant must be at least 50 percent owned by a person or persons who either (1) has or have individual annual family income(s) (other than welfare) which is not sufficient to satisfy the basic need of each such individual family, or (2) has or have been denied the opportunity to have access to adequate financing on reasonable terms, through normal lending channels because of economic or social disadvantage. Businesses located in urban or rural areas with a high proportion of unemployed or low income individuals may be considered economically disadvantaged.

(c) Financial assistance may be used to effect a change in ownership of a business where such a change will further the objectives of the EOL program, the provisions of § 120.1(d)(2) of this chapter notwithstanding.

(d) A cooperative association is eligible provided that its members are eligible small business concerns. Consumer cooperatives are not eligible.

(e) Financial assistance shall not be extended when it is determined that the loan funds will be used in relocatiing establishments from one area to another if the relocation would result in an increase in unemployment in the area of original location. (Relocation within a community or local area shall not be considered relocation from one area to another.)

(f) Financial assistance shall not be extended if funds are otherwise available on reasonable terms from private sources or other Federal, State, or local programs. The applicant's bank of account, if any, will be contacted to determine its willingness to finance the applicant independently, to participate with SBA, or to make a loan with a guaranty by SBA. New private lending activity should be sought.

§ 119.31 Terms and conditions.

(a) An EOL shall not be made, participated in, or guaranteed if the total amount of the Government's share of such assistance to a single borrower at any one time exceeds a total outstanding of $25,000. The $25,000 loan limit applies collectively to all EOL loans to business entities owned or controlled by affiliated ownership.

(b) Repayment will be required at the earliest feasible date giving consideration to the use to be made of the funds and indicated ability to repay. Working capital loans will be limited to 10 years. Longer terms up to 15 years may be provided where the proceeds are for acquisition of realty or other fixed assets. Where a combination of purposes is involved, the period for repayment will be adjusted accordingly. When deemed necessary, grace periods for payments of principal may be provided up to 13 months from date of note. Interest payments will be required during such grace period. A fluctuating repayment schedule may be established for seasonal businesses.

(c) (1) Interest on direct loans shall be at the rate of 5⅝ percent per annum. On immediate participation loans, the interest rate shall be 5⅝ percent per annum on SBA's share, and shall be a legal and reasonable rate, but not in excess of 8 percent per annum on the participant's share. The interest rate on guaranteed loans shall be at a legal and reasonable rate but not to exceed 8 percent per annum, including SBA guaranty fee of one quarter of 1 percent.

(2) In EOL loans the interest rate on SBA's share of a guaranteed loan after purchase by SBA becomes 5⅝ percent per annum.

(3) The interest rate for EOL loans is set by a formula determined by the Secretary of the Treasury and can vary from time to time.

(d) There are no statutory requirements with respect to collateral for loans. Inadequate collateral shall not be used as a reason to decline unless the applicant refuses to pledge whatever worthwhile collateral is available.

§ 119.41 Participation.

(a) The amount of SBA guaranty may be up to 100 percent of the EOL, but shall not exceed $25,000. On SBLG the guaranty shall not exceed 90 percent.

(b) In immediate participation loans, SBA participation shall not exceed $25,000 or 90 percent of the loan, whichever is the lesser. The service fees charged by the bank may equal but not exceed

those which it charges on regular business loans.

§ 119.51 Credit requirements.

An application must meet certain practical credit requirements established by SBA. Principal requirements are as follows:

(a) An applicant must be of good character as determined by SBA.

(b) There must be evidence of ability to operate the business successfully. When, in the opinion of SBA, an applicant requires management assistance to attain, supplement or improve such ability, SBA may require that the applicant accept such management assistance as SBA may prescribe, as a condition of the loan.

(c) As required by the Act, there must be reasonable assurance of repayment of the loan.

(d) There must be evidence that the loan proceeds, together with other funds available to the applicant, are adequate to assure completion or achievement of the purposes for the loan.

(e) The purposes of the financial assistance must be consistent with the intent of the Economic Opportunity Act of 1964, as amended.

§ 119.61 Application procedure.

(a) An applicant desiring to obtain an EOL shall apply to the regional office serving the area in which the applicant resides. If another SBA office is closer, he may obtain counseling or advice from it. Addresses of regional offices may be obtained from SBA.

(b) If, following a preliminary review of the applicant's case, the SBA finds the applicant's request worthy of further consideration, an SBA loan officer will assist the applicant in the preparation of necessary application forms and supporting documents.

(c) After a loan application has been submitted to SBA and has been approved or declined, the regional office will send a letter of notification to the applicant. In cases of decline, the reasons will be stated. When a bank is participating, the applicant and the bank will be notified at the same time by SBA.

§ 119.71 Applicability of other SBA regulations.

All applicable provisions of Parts 120 and 122 of this Chapter shall apply to EOLs except where other provision is made in this part.

§ 119.81 Technical assistance and management training.

(a) A management evaluation guide will be prepared for all direct EOL applicants before approving the loan.

(b) Where public or private nonprofit organizations render management guidance, training, and counseling, SBA will cooperate with such organizations in providing both financial and management assistance.

§ 119.91 Evaluations.

A continuing evaluation of this program will be made including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated.

Effective date: December 2, 1968.

HOWARD J. SAMUELS,
Administrator.

[F.R. Doc. 68-14689; Filed, Dec. 9, 1968; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[11th Gen. Rev. of Export Regs., Amdt. 12]

PART 369—REQUEST FOR INFORMATION OR ACTION IN SUPPORT OF CERTAIN FOREIGN RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

Miscellaneous Amendments

Parts 369 and 373 of the Code of Federal Regulations are revised to read as follows:

In § 369.2 *Reporting requirement* paragraphs (a) and (b) are hereby amended to read as follows:

§ 369.2 Reporting requirement.

(a) *Scope.* In order to implement the policy set forth in § 369.1, a reporting requirement is hereby established. The provisions of this § 369.2 apply to any U.S. exporter who receives a request for an action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting a restrictive trade practice or boycott fostered by any foreign country against any country not included in Country Group S, W, Y. or Z. (See note at end of § 369.2 for examples of restrictive trade practices or boycotts.) Where such request is received by any other person handling any phase of the transaction for the exporter, that person (forwarding agent, etc.) is responsible for informing the exporter of the request so that the latter may report it.

(b) *Report required from U.S. exporter.* Any U.S. exporter who receives a request, or is informed of a request, relating to a restrictive trade practice or boycott, as described in paragraph (a) of this section, shall report the request to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230. The exporter's report may be submitted in accordance with the procedure set forth in either subparagraph (1) or (2) of this paragraph.

* * * * *

In § 373.4 *Distribution of U.S. commodities by foreign-based subsidiary, affiliate, or branch,* paragraph (i) is hereby amended to read as follows:

§ 373.4 Distribution of U.S. commodities by foreign-based subsidiary, affiliate, or branch.

* * * * *

(i) *Extension of validity period.* The validity period of a Form FC-143 or FC-243 may be extended by the submission of a new form prior to the expiration date of a current form.

* * * * *

In § 373.65 *Ultimate consignee and purchaser statement* paragraph (b)(5), (c)(2)(iv), and (4) are hereby amended to read as follows:

§ 373.65 Ultimate consignee and purchase statement.

* * * * *

(b) * * *

(5) *Amendments to statements.* Where a consignee/purchaser statement, Form FC-842 or FC-843, is on file in the Office of Export Control, an amendment to the statement may be submitted in the form of an additional Form FC-842 or FC-843, a wire or cable, or a copy of the wire or cable from the ultimate consignee. Sufficient identifying information shall be submitted with the amendment to permit the Office of Export Control to identify the amendment with the statement on file in the Office of Export Control, such as: Form number (Form FC-842 or FC-843); name of consignee or purchaser and date of signing; case number of the license application with which the statement was submitted to the Office of Export Control; applicant's reference number; etc. However, extension of the validity period of a Form FC-843 may be effected only by submitting a new form; no amendment will be granted to extend validity.

* * * * *

(iv) A Single Transaction Statement submitted in support of an application for a validated license to export any copper commodity described in § 373.20 or 373.43 to the Republic of Vietnam shall be endorsed by the designated representative of the U.S. Agency for International Development Mission, Saigon, Vietnam, as set forth in §§ 373.20(a)(2)(iv) and 373.43(b)(2)(iii).

* * * * *

(4) *Extension of validity period of a Multiple Transactions Statement.* The validity period of a Multiple Transactions Statement may be extended by the submission of a new Form FC-843 prior to the expiration date of a current form.

* * * * *

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: December 5, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 68-14733; Filed, Dec. 9, 1968; 8:50 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 68-137]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

CONNECTICUT RIVER, CHESTER, CONN.

1. The Pattaconk Yacht Club, of the town of Chester, Conn., by letter dated January 5, 1968, requested the establishment of a special anchorage area in the Connecticut River, Chester, Conn. A public notice dated May 17, 1968, was issued by the New England Division, Corps of Engineers, describing the proposed anchorage area. All known interested parties were notified, and a few objections were received from fishing interests. These objections have been resolved, in that mooring buoys will not be in place during the shad fishing season from April 1 to June 15. Therefore the request is granted and the establishment of a special anchorage area as described in 33 CFR 110.55 (e-1) and (e-2) below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish and describe the special anchorage area in the Connecticut River, Chester, Conn., as described in 33 CFR 110.55(e-2) below and to delete the phrase concerning the area described in 33 CFR 110.55(e-1) as being under the jurisdiction of a local Harbor Master, as there is no local Harbor Master in the area at present.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR 110 is amended as follows to become effective on and after 30 days after publication of this document in the FEDERAL REGISTER:

1. Section 110.55 is amended as follows:

Paragraph (e-1) is amended, and a new paragraph (e-2) is added, following (e-1), reading as follows:

§ 110.55 Connecticut River, Conn.

* * * * *

(e-1) *Area No. 1 at Chester.* Beginning at a point about 600 feet southeasterly of the entrance of Chester Creek, at latitude 41°24'23", longitude 72°25'41"; thence due south about 1,800 feet to latitude 41°24'05", longitude 72°25'41"; thence due east about 600 feet to latitude 41°24'05", longitude 72°25'32"; thence due north about 1,800 feet to latitude 41°24'23", longitude 72°25'32"; thence due west about 600 feet to the point of beginning.

NOTE: The area is principally for use by yachts and other recreational craft. A mooring buoy is allowed. Fixed mooring piles or stakes are prohibited.

(e-2) *Area No. 2 at Chester.* That area south of latitude 41°24'43.9", west of longitude 72°25'35", north of latitude 41°24'33.4", and east of longitude 72°25'40.8".

NOTE: Area No. 2 may not be used during the shad fishing season, April 1 to June 15, inclusive. A mooring buoy is permitted at other times. Fixed mooring piles or stakes are prohibited.

* * * * *

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322; 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: December 4, 1968.

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

[F.R. Doc. 68-14672; Filed, Dec. 9, 1968; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

1. The table of contents for Part 5A-1 is amended to add Subpart 5A-1.6, as follows:

PART 5A-1—GENERAL

Subpart 5A-1.6—Debarred, Suspended, and Ineligible Bidders

Sec.
5A-1.606 Agency procedure.
5A-1.606-51 Debarment by other agencies.

Subpart 5A-1.3—General Policies

2. Section 5A-1.310-6(b) is amended to change two organizational titles and to delete the final six words from the fourth sentence. As amended, paragraph (b) reads as follows:

§ 5A-1.310-6 Determination of responsibility.

* * * * *

(b) FSS contracting officers shall submit proposed determinations of nonresponsibility to the appropriate Review Committee in accordance with § 5A-75.201(c)(3) and § 5A-75.401(e). After review, the letter of rejection shall be issued promptly to the bidder. A memorandum to the Office of Audits and Compliance transmitting a copy of the determination shall then be prepared for the signature of the Regional Director, FSS, or the Director, Procurement Operations Division, as appropriate. Copies of the memorandum and determination shall be distributed to each other FSS buying activity. If the basis for rejection includes lack of financial responsibility, copies shall be furnished to the Chief, Finance Division, in the appropriate regional accounting center or Director, Credit and Finance Division, Office of Finance, OAD, as appropriate.

Subpart 5A-1.6—Debarred, Suspended, and Ineligible Bidders

3. Subpart 5A-1.6, reading as follows, is added.

§ 5A-1.606 Agency procedure.

§ 5A-1.606-51 Debarment by other agencies.

Unless otherwise directed by the Assistant Commissioner for Procurement or higher authority, GSA debarment action shall not be initiated solely on the basis of a debarment by another agency if the debarment by GSA would not become effective at least 90 days prior to the termination date of the debarment by the other agency. However, in such cases, the Office of Audits and Compliance shall be requested to include the name of the firm or individual on the Review List of Bidders.

PART 5A-16—PROCUREMENT FORMS

Subpart 5A-16.9—Illustrations of Forms

4. New § 5A-16.950-1797 is added to read as follows:

§ 5A-16.950-1797 Sample notice to ordering offices cover.

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Subpart 5A-72.1—Procurement of Stores Stock Items

5. Section 5A-72.105-22 is revised to read as follows:

§ 5A-72.105-22 Quantity pack requirements.

Where a quantity pack requirement has been established for an item, the requirement should be clearly set forth in solicitations, term contract summaries (where applicable), and delivery and purchase orders.

(a) *Solicitations.* Quantity pack requirements shall be identified in solicitations substantially as shown in the following examples:

(1) When there is an intermediate container, the identification would be "Packed 6 units per package, 4 packages per intermediate container, 8 intermediate containers per shipping container (total 192 units per shipping container)."

(2) When there is no intermediate container, the identification would be—"Packed 12 units per package, 32 packages per shipping container (total 384 units per shipping container)."

(3) When no unit package or intermediate container is required, the identification would be "Packed 12 units per shipping container."

(4) In those cases where the unit container is also the shipping container, identification of quantity pack is not necessary.

(b) *Contract summaries.* The GSA Form 1584, Contract Summary, includes columns for showing quantity pack requirements. Instructions on the form for citing such data are self-explanatory.

(c) *Delivery orders.* For the sake of brevity and to simplify the preparation

of delivery orders, i.e., orders placed against formal contracts (but not purchase orders, see paragraph (d) of this section), the quantity pack requirements shall be shown on such orders by means of a three segment symbol, each segment separated by a slanting directional line (e.g., 6/4/8). The first segment would indicate the number of units per package (pkg.), the second the number of pkgs. per intermediate container (IC), and the third, the number of units, pkgs., or IC's, as applicable, per shipping container. Identification of quantity pack is not necessary in those cases where the unit container is also the shipping container.

(1) The following illustrate the method of identifying quantity pack requirements on delivery orders:

(i) "Pack 6/4/8" to identify pack fully described as "packed 6 units per package, 4 packages per intermediate container, 8 intermediate containers per shipping container."

(ii) "Pack 12/0/32" to identify pack fully described as packed 12 units per package, 32 packages per shipping container."

(iii) "Pack 0/0/12" to identify pack fully described as "packed 12 units per shipping container."

(2) Normally, quantity pack requirements should be inserted at the end of the item description. Where the same quantity pack requirement applies to two or more items on an order, a single statement identifying the items to which the requirement applies may be used; for example, "Pack above items 6/4/8."

(d) Purchase orders. On purchase orders, i.e., orders placed as a result of informal quotations, the quantity pack requirement shall be described in the same manner as provided in paragraph (a), of this section, for solicitations, except that the data may be condensed by the use of understandable abbreviations in a manner similar to the following:

Pack _____* per pkg, 4 pkgs per intermed contnr, 8 intermed contnrs per ship contnr.

(e) Solicitations covering stock items for which quantity pack requirements have not been established shall include a request (but not a requirement) for bidders to state the quantity pack they are offering. The quantity pack information received in response to a solicitation containing such a request may not be considered a factor in determining award; but when award is made, the quantity pack offered by the successful bidder shall become a contract requirement and shall be shown on resulting orders (and on the term contract summary, if one is prepared) as indicated above.

(f) Where a quantity pack requirement for an item has not been established either by the Standardization Division or by the buying activity, the buying activity shall, where appropriate, establish quantity pack requirements for the unit package, intermediate package, and shipping container (as applicable). Such requirements should be determined on the basis of the Government's needs, the quantity packs furnished on previous procurements, and the quantity pack information received in response to solicitations pursuant to paragraph (e) of this section. Information regarding the Federal stock number and quantity established for the unit package, intermediate package, and shipping container, as applicable, shall be forwarded to the Standardization Division (Code FMSX) for its use in establishing a standard pack. Paints and related items in FSC 8010 and subsistence items in Group 89 are exempt from the requirements of this and the preceding paragraph because of industry standardization of packaging requirements for the commodities concerned.

(g) Regional buying activities may continue to use quantity pack requirements which they establish until such time as a standard pack quantity is developed by the Standardization Division.

*Insert appropriate unit, e.g., EA, PR, DOZ, COILS, ROLLS, BALLS, BOXES, CANS, etc.

Subpart 5A–72.1—Procurement of Stores Stock Items

6. Section 5A–72.105–23(b) (2) and (3) are amended to read as follows:

§ 5A–72.105–23 Preparation and distribution of contractual information.

* * * * *

(b) Definite quantity buys by national or zone purchasing activities.

* * * * *

(2) Action required by the contracting office. When GSA Form 2172 is used, it shall be prepared upon completion of the initial purchase action by the contracting office in an original and two copies for each region for which purchase is made. The originals shall be mailed daily, marked for the attention of the Chief, Inventory Management Division/Branch of the applicable region(s). In those cases where a contract is involved, two copies of the invitation or solicitation shall be attached to each original of the GSA Form 2172, and two copies of the invitation or solicitation shall be forwarded to the Quality Control Division in the region where the material is to be inspected. One copy of GSA Form 2172 shall be placed in the purchase case file and the second copy furnished to the applicable clerical staff for the purpose of recording line item count. Copies of purchase orders received from the regions (see subparagraph (3) of this paragraph) shall be filed in the purchase case file of the contracting office as evidence of completed purchase transactions.

(3) Action required by the regional office. The Chief, Inventory Management Division/Branch, shall assign a "high-priority" to the typing and placing of the purchase order with the supplier indicated on the Procurement Source Document. The purchase order shall cite "Sec. 302(c)(3) 41 U.S.C. 252(c)(3)" or the contract number as the authority for purchase and shall reference the purchase case file number of the contracting office as shown in the upper right hand corner of the Procurement Source Document. The purchase order shall be signed by the responsible regional buyer and distributed in the normal manner, except that a copy shall be forwarded without delay to the contracting office marked for the attention of the buyer named on the Procurement Source Document. The purchase order shall be signed by the responsible regional buyer and distributed in the normal manner, except that a copy shall be forwarded without delay to the contracting office marked for the attention of the buyer named on the Procurement Source Document. If copies of invitation or solicitation have been furnished as provided in subparagraph (2), of this paragraph, one copy each of such invitation or solicitation shall be furnished to the paying office as an attachment to the fifth copy of the purchase order. The original of the Procurement Source Document shall be filed with the fourth copy of the purchase order.

PART 5A–73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A–73.1—Production and Maintenance

7. Section 5A–73.103(a) is revised to read as follows:

§ 5A–73.103 Production time schedule.

(a) Federal Supply Schedules shall be issued in sufficient time to be received by all GSA regional offices not less than 2 weeks in advance of the expiration dates of the current Schedules in order to allow time for redistribution to agency ordering offices. The production of each Schedule shall be kept under continuous review to assure that this distribution deadline is met. Forty-five (45) days prior to the expiration date of the current Schedule a special review shall be made. If at this or any other time it is apparent that the distribution deadline cannot be met, a Notice to Ordering Offices advising of the delay shall be prepared and distributed immediately in accordance with subparagraphs (1) and (2) of this paragraph. If such notice cannot be issued in sufficient time to be received by GSA regional offices at least 2 weeks in advance of the expiration date of the current Schedule, the Chief, Buying/Procurement Division, at each regional office shall be notified of the delay and the approximate date the notice will be received for redistribution.

(1) Each Notice to Ordering Offices shall be prepared on the GSA Form 1797 and be dated, identified, and coded in the same manner as Federal Supply Schedule amendments (see §§ 5A–73.105 and 5A–73.125), except that numbering is not required. See illustration of such a notice at § 5A–16.950–1797. The notice shall contain such of the following information as is appropriate:

(i) That the issuance of the new Schedule will be delayed.

(ii) The reason(s) for the Schedule being late unless due solely to workload and not to unforeseen developments which resulted in delay.

(iii) The approximate date the new Schedule may be expected.

(iv) A very brief note of any significant changes made in the Schedule

coverage, scope, or other features; and where such changes also relate to delay in issuing the Schedule, so state.

(v) The action that agencies should take in regard to satisfying requirements until the new Schedule is received.

(2) Two copies of such a notice shall be forwarded to the Chief, Buying/Procurement Division, at each regional office together with such supplemental information as may be appropriate for use in regional handling of agency inquiries. Twenty-five copies of each notice involving late issuance of a Schedule of national scope shall be forwarded to the Director, Procurement Programs and Systems Division, FPS.

§ 5A–73.103(b) [Amended]

8. Section 5A–73.103(b) is amended to change the edition date and title of the GSA Form 1659. As amended, paragraph (b) reads as follows:

(b) In order to assure the timely issuance of Federal Supply Schedules and to accomplish all phases of production in an orderly and economical manner, a time schedule establishing target completion dates for each step in the production process shall be maintained at a central point. An effective method of accomplishing such control is by the use of GSA Form 1659, March 1965, Annual Production Plan—Federal Supply Schedules. A target date for each phase of the production process shall be determined and entered in the target date columns. These dates should be adhered to as closely as possible and every effort made to complete each step on or before the target date.

* * * * *

9. Section 5A–73.105 is amended to provide that the GSA Form 1797 format is also to be used as the cover for notices. As amended section 5A–73.105 reads as follows:

§ 5A–73.105 Forms to be used.

In addition to the forms listed in § 5A–2.201–70, GSA Form 1797 is prescribed as the basic format to be used as covers for Federal Supply Schedules, amendments, cross reference sheets, and notices. The design was adopted to provide maximum uniformity which affords easy identification by users of the Schedules. The form and examples of completed covers are illustrated at § 5A–16.950–1797. In the interest of economy, the specific content of each notice, amendment, etc., should be printed on the reverse of GSA Form 1797 (as page 2) whenever practicable; and plain paper should be used for any necessary continuation sheets (pages 3, 4, etc.). In addition, for very brief amendments or notices, it may be possible to include all of the text in the middle right hand block on the face of the form.

NOTE: The form identified in § 5A–16.950–1797 is filed with the original document. Copies may be obtained from Federal Supply Service, 18th and F Streets NW., Washington, D.C. 20405 (Code FPP).

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); CFR 5–1.101(c))

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: November 26, 1968.

H. A. ABERSFELLER,
Commissioner,
Federal Supply Service.

[F.R. Doc. 68–14705; Filed, Dec. 9, 1968; 8:47 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER B—ARCHIVES AND RECORDS

PART 101–11—RECORDS MANAGEMENT

Standard Form 180 Prescribed

Standard Form 180, Request Pertaining to Military Records, is prescribed for requesting information from the National Personnel Records Center.

The table of contents for Part 101–11 is amended to provide a revised entry and a new entry, as follows:

101–11.410–7 Serving transferred records.
101–11.4921 Standard Form 180: Request Pertaining to Military Records.

Subpart 101–11.4—Disposition of Federal Records

Section 101–11.410–7 is revised, as follows:

§ 101–11.410–7 Servicing transferred records.

Restrictions lawfully imposed on the use of transferred records will be observed and enforced by all Federal records centers, subject to the provisions of 44 U.S.C. 2104. Official use of transferred records by Federal employees will be in general accordance with provisions relating to public use of such records (see 41 CFR 105–61.1). Subject to any restrictions on their use, such records may be borrowed by Federal agencies and the Congress for official use outside the Federal records centers.

(a) Standard Form 180, Request Pertaining to Military Records (§ 101–11.4921), shall be used by Federal agencies to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to facilitate unofficial inquiries and may direct non-Government organizations to the Superintendent of Documents to purchase quantities of the form.

(b) Requests for official personnel files shall be made in accordance with § 101–11.410–3(e).

(c) For any other requests, agencies may use Optional Form 11, Reference Request—Federal Records Centers (§ 101–11.4910).

Subpart 101–11.49—Forms and Reports

Section 101–11.4921 is added, as follows:

§ 101–11.4921 Standard Form 180: Request Pertaining to Military Records.

NOTE: The form in § 101–11.4921 is filed as a part of the original document. Federal agencies may obtain copies from the nearest General Services Administration supply depot.

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

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: December 4, 1968.

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

[F.R. Doc. 68–14685; Filed, Dec. 9, 1968; 8:46 a.m.]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.5—GSA Procurement Programs

TYPE I MOTOR VEHICLES

Section 101–26.501 is revised to read as follows:

§ 101–26.501 Purchase of new motor vehicles.

With respect to the procurement of new sedans and station wagons, it shall be the policy to procure Type I, as described in Federal Standard No. 122, unless another type is specifically required. Agencies requiring sedans and station wagons other than Type I shall justify the need for such requirement and shall retain the justification in their files.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER. Requisitions submitted prior to publication of this regulation will not be effected.

Dated: December 4, 1968.

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

[F.R. Doc. 68–14686; Filed, Dec. 9, 1968; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 947]

IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Notice of Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth which were recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and Order No. 947, as amended (7 CFR Part 947).

This marketing order program regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon, except Malheur County, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

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

§ 947.221 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1968, and ending June 30, 1969, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $28,250.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be three-tenths of one cent ($0.003) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1969, may be carried over as a reserve.

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

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

Dated: December 5, 1968.

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

[F.R. Doc. 68–14731; Filed, Dec. 9, 1968; 8:50 a.m.]

[7 CFR Parts 1030, 1047, 1049]

[Dockets Nos. AO–319–A14, AO–33–A39, AO–361–A1]

MILK IN INDIANAPOLIS, IND. (RENAMED "INDIANA"), FORT WAYNE, IND., AND CHICAGO REGIONAL MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Indianapolis, Ind., on July 29 and 30, 1968, pursuant to notices thereof which were issued July 13, 1968 (33 F.R. 10104) and July 19, 1968 (33 F.R. 10346).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on November 7, 1968 (33 F.R. 16505; F.R. Doc. 63–13618) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (33 F.R. 16505; F.R. Doc. 68–13618) are hereby approved and adopted and set forth in full herein subject to the following modifications:

1. Under issue 2 Class prices and differentials, the 15th and 16th paragraphs are deleted and eight paragraphs are substituted thereat.

2. Under issue 4 Miscellaneous administrative and conforming changes (b) Plant requirement for pooling, four new paragraphs are added after the sixth paragraph.

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

1. Merger of the Fort Wayne, Ind., order into the Indianapolis, Ind., order and inclusion in the regulated marketing area of certain additional Indiana counties regulated under the Chicago Regional order and certain other Indiana counties not currently under regulation:

(a) Interstate commerce.

(b) Need for such merger and expansion of the Indianapolis marketing area.

2. Class I price level and differentials for butterfat and location.

3. Revision of "producer milk" definition with respect to diversions of milk and point of pricing for diverted milk.

4. Miscellaneous administrative and conforming changes:

(a) Definitions of "producer," "route," and "fluid milk product."

(b) Plant requirements for pooling.

(c) Interplant transfers and diversions.

(d) Application of seasonal incentive (Louisville) plan.

(e) Other administrative provisions.

FINDINGS AND CONCLUSIONS

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

1. Merger of the Fort Wayne, Ind., order with the Indianapolis, Ind., order and further expansion of the combined marketing area to include certain unregulated Indiana counties and eight Indiana counties presently included in the Chicago Regional order.

The expanded marketing area covered by the consolidated order should be designated the "Indiana marketing area". CFR Part 1047 of Title 7 (Fort Wayne, Ind., Order No. 47) would be superseded thereby.

(a) *Interstate commerce.* Milk handling in the proposed Indiana marketing area is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in milk and its products.

There is substantial competition for route sales of fluid milk products not only among handlers to be regulated by the proposed Indiana order (as further described below), but also between them and the handlers under orders for areas outside Indiana. Some route distribution is made in various parts of the proposed marketing area by handlers regulated under several orders, including the Greater Cincinnati, Louisville-Lexington-Evansville, Miami Valley, Southern Michigan, Southern Illinois, Chicago Regional and Columbus, Ohio, orders. Conversely, fluid milk products processed in plants located in the proposed marketing area move into other Federal order marketing areas such as Southern Michigan, Columbus, Greater Cincinnati, Louisville-Lexington-Evansville, Central Illinois, Chicago Regional, and Southern Illinois. These orders cover areas in the States of Michigan, Ohio, Indiana, Illinois, Wisconsin, and Kentucky. Milk used for fluid milk and milk products under each of the above orders has been found to be in the current of, and to burden or

affect, interstate commerce in milk and its products.

One handler, presently regulated under the Indianapolis order, operates a pool distributing plant at Greenville, Ohio. Milk from farms in Ohio and Indiana is processed and packaged at such plant for distribution in the proposed Indiana marketing area in competition with Indiana handlers. This handler also distributes milk in Ohio in competition with handlers from several of the above markets.

Milk from farms in Wisconsin, Michigan, Ohio, and Illinois is transported regularly across State lines to be commingled and processed at plants of Indiana handlers and that of the single Ohio handler, who would be regulated under the expanded order.

Milk in excess of fluid milk requirements at plants to be regulated is manufactured into various dairy products, particularly butter and nonfat dry milk. Much of such milk is moved to the plants of two of the proponent cooperatives which are located at Dayton, Ohio, and Fort Wayne, Ind., mainly for manufacture into nonfat dry milk. The remaining reserve milk is processed at other plants in Indiana, Ohio, and Wisconsin. These products, manufactured from producer milk, are shipped to a number of markets outside Indiana, where they compete on the national market with products manufactured in other states.

(b) *Basis for expanding Indianapolis marketing area.* The Indianapolis order should be expanded to regulate (1) the marketing area now under the Fort Wayne order, (2) certain Indiana counties (formerly known as the Northwestern Indiana marketing area) regulated since July 1, 1968, under the Chicago Regional order, and (3) six Indiana counties (Cass, Fulton, Warren, Fountain, Parke, and Vermillion) not now under any regulatory program of this type. The expanded market should be renamed the "Indiana marketing area."

Six cooperatives representing a substantial majority of the producers in the Indianapolis, Fort Wayne, and former Northwestern Indiana markets proposed combining the above-named regulated areas and 10 unregulated counties (Benton, Cass, Fountain, Fulton, Jasper, Newton, Parke, Pulaski, Warren, and Vermillion) under a single order. Representatives of virtually all handlers in the State of Indiana supported the proposed single order.

Proponent cooperatives contended that unless a single order for the proposed Indiana marketing area is adopted, many handlers in Northwestern Indiana will be unable to compete in distribution or in maintaining producer supplies. They testified further that a single order would (1) eliminate marketing problems resulting from the increasing penetration of individual handler sales routes from one market into another in Indiana, and (2) facilitate efficiencies in the handling of supplies to meet the changing daily requirements of handlers throughout the State.

Representatives of three cooperatives associated primarily with the Chicago Regional market appeared in opposition to removal of the eight Northwestern Indiana counties from regulation under the Chicago Regional order. One cooperative was opposed to removal on the grounds that (1) since these counties were included in the Chicago Regional market only recently, they should not so soon be removed unless other areas likewise recently incorporated into the latter market are considered for removal, (2) the Northwestern Indiana handlers rely on the Chicago market to furnish their needs for supplemental milk, (3) Chicago order milk is distributed on routes in such Indiana counties, and (4) removal of such counties would increase the difficulty of Wisconsin supply plants to qualify for pooling under the Chicago Regional order. The other cooperatives were opposed to removal of such eight counties from the Chicago Regional order on the basis that there would be a sales loss to the Chicago order pool.

The primary purpose of a Federal milk marketing order is to promote orderly marketing conditions throughout a "market" by implementing a system of classified pricing and establishing a means by which producers supplying the particular market may share uniformly in the proceds from the sale of their milk. With this general objective in mind, Federal milk orders were made effective many years ago in the Indianapolis, Fort Wayne, and Northwestern Indiana marketing areas. The Indianapolis and Fort Wayne orders continue to operate as separate regulations. The Northwestern Indiana order was merged, however, into the newly established Chicago Regional market order on July 1, 1968.

In recent years, a number of major technical and economic developments have taken place with respect to the marketing of fluid milk in Indiana, causing an intensification of competition both in procurement and distribution among the State's principal fluid milk markets. This has been brought about by such factors as: Improved mobility of milk, increasing concentration of fluid milk processing, greater need for closer working relationships among cooperatives, greater overlapping of market milksheds, uniform health requirements throughout the State, and increased competition among markets for large wholesale accounts.

As a consequence, handlers have extended milk routes substantially, enlarging the area where a closely interrelated group of buyers and sellers operate and tending to erode individual market boundaries as historically set. The Indiana markets thus are taking on a broad geographical rather than local character and require application of the same form of regulation over a wider territory to insure the continuance of orderly, efficient marketing under the new conditions.

As individual markets grow through expansion of sales distribution areas for Class I milk and the need to draw milk from wider production areas increases, even the question of what larger area constitutes the relevant market becomes more complicated. Under today's conditions, regular long-distance shipments of milk between markets are common and few markets in the nation are separate in all respects from other markets.

This is particularly so in Indiana where, as previously indicated, the markets are in constant relationship in both distribution and supply not only with each other but also with other markets in neighboring States. Yet there are economic characteristics and local factors which suggest a highly homogeneous marketing situation in Indiana reasonably distinguishable from other market situations and therefore point to a particular form and scope of regulation.

The counties to be included in the proposed Indiana marketing area under a consolidated order should be determined primarily by conditions affecting competition in distribution for the major suppliers serving such area. The presence of uniform quality and sanitation requirements and the intensity of competition among handlers within the above areas in relation to the degrees of competition offered by handlers from other Federal orders assist in defining the area which should be covered.

The two regulated marketing areas of Fort Wayne and Indianapolis abut each other. Over time, handlers in each area have broadened their spheres of distribution so that now routes from each area penetrate substantially into the other. Sales in the present Indianapolis and Fort Wayne marketing areas (46 Indiana counties) are made from widely dispersed plants operated by 32 handlers regulated under the two orders. A recent Purdue University survey of such intermarket distribution was submitted in testimony. This survey disclosed that Fort Wayne handlers distribute milk in eight counties of the present Indianapolis marketing area: Delaware, Grant, Henry, Madison, Miami, Randolph, Tipton, and Wayne. Indianapolis handlers distribute milk in four counties of the Fort Wayne marketing area: Blackford, Huntington, Jay, and Wabash. In Blackford and Jay counties, Indianapolis handlers account for about 61 and 76 percent, respectively, of the fluid milk sales in such counties.

Class I sales made in each of the 46 counties by the Fort Wayne and Indianapolis handlers, plus the sales therein by handlers from Northwestern Indiana, substantially exceed those made by distributors from other markets. For example, sales by handlers in Indiana represent between 91.8 and 100 percent of total county sales in each of the 46 counties.

The intimate marketing relationship between the Indianapolis and Fort Wayne areas is illustrated also by the fact that the bulk of producer milk supplies of the handlers in both markets are procured from a common production area in Indiana and nearby Ohio. One Fort Wayne cooperative regularly supplies member milk to a handler in the Indianapolis market as well as to handlers in the Fort Wayne market. This cooperative operates a plant at Fort Wayne, which is a major outlet for reserve milk in excess of the fluid milk requirements of Indianapolis and Fort

Wayne handlers. The principal cooperative in the Indianapolis market has producer members delivering to the Fort Wayne market.

The gain or loss of a large account by a handler in either market can cause the handler's plant to be transferred to the other market for the purpose of regulation. This affects his producers in that they also are transferred to the other market. The switching of individual plants on this basis for temporary periods can substantially improve the blend price for producers in the market gaining the account and have an opposite effect on the producers in the market losing the account. Significant seasonal variations in blended prices between the two markets also occur and cause "order-jumping" by some producers. Since the two markets are in close competition for milk supplies as well as in distribution, significant temporary changes in blend price relationships in either direction are disruptive to procurement practices and cause dissatisfaction among producers.

Adoption of the same regulatory program for both markets will provide a constant price relationship between the two and also assist the cooperatives in both markets in their joint efforts to improve efficiency in servicing all handlers with their fluid needs and in disposing of daily and seasonal reserves not needed in bottling plants. Combining these areas thus will help promote a more stable marketing situation for producers in both markets.

Handlers in both markets supported the producers' proposal to include the Fort Wayne market under the same regulatory program as Indianapolis.

The six unregulated counties of Fulton, Cass, Warren, Fountain, Parke, and Vermillion appropriately should be included in the expanded marketing area.

Producers proposed to include in the expanded marketing area such six Indiana counties plus four other unregulated counties. The 10 counties they proposed are: Fulton, Cass, Pulaski, Jasper, Newton, Benton, Warren, Fountain, Parke, and Vermillion.

The problems of distribution and procurement which prevail in the six counties included are highly similar to those of the Indianapolis market. In Cass County, Indianapolis handlers distribute 83 percent of the county's total sales. The remaining 17 percent of sales in this county are made by Northwestern Indiana handlers.

Two local distributors with plants in Cass County have been both partially regulated and regulated handlers under the Indianapolis and Northwestern Indiana orders at various times, and at other times have been in an unregulated status. This has caused them difficult procurement problems. One of these handlers requested that he be placed under full regulation in order that his producers might be on the same pricing basis as producers of the Indianapolis regulated handlers with whom he competes for fluid sales and a milk supply.

Indianapolis handlers distribute 64 percent of the total sales in Fountain County, with Northwestern Indiana handlers accounting for the remaining 36 percent. In Parke County, Indianapolis handlers distribute 72 percent of total sales, with the remaining 28 percent by Northwestern Indiana handlers. In Vermillion and Warren Counties, all sales are made by Indianapolis handlers.

The largest of the handlers formerly regulated by the Northwestern Indiana order (now a part of the Chicago Regional order) has his plant in Fulton County. It is the only plant located in this rural county. The Fulton County handler indicated on the record his intention to transfer his plant to regulation under the Indianapolis order and, effective August 1, 1968, this handler did become subject to the Indianapolis order. In this connection official notice is taken of the Indianapolis market administrator's "Official Announcement of the Uniform Price for the Indianapolis, Ind., Marketing Area for August 1968."

Fluid milk sales in Fulton County are made not only by this handler but also by handlers from the Indianapolis, Northwestern Indiana, and Chicago Regional orders. Handlers formerly under the Northwestern Indiana order, including the handler with the Fulton County plant, distribute 53 percent of the total sales; Indianapolis handlers, 2 percent; and Chicago Regional handlers, 45 percent. The sales made by Chicago Regional handlers in this county are, however, only about 3 percent of their aggregate sales in the State of Indiana.

The inclusion of such six unregulated counties is appropriate to extend the uniform price plan to an area primarily served by handlers from Indianapolis and Northwestern Indiana. However, the remaining four unregulated Indiana counties of Benton, Jasper, Newton, and Pulaski proposed for regulation should not be included in the Indiana marketing area.

The majority of the distribution in three of these four rural counties is by Chicago regulated handlers. Chicago handlers distribute about 63 percent of the sales in Newton County, 81 percent in Jasper County, and 58 percent in Pulaski County. There is no record evidence to indicate the identity or location of distributors serving Benton County. The bulk of the remaining sales are made by handlers from Northwestern Indiana. Indianapolis handlers have no distribution in Newton County and only minor sales in Jasper and Pulaski Counties. In addition, there was no indication in the record of unregulated distribution in any of the four counties which would seriously affect or disturb the marketing of milk to be regulated by the expanded order.

Producers proposed further that the expanded marketing area include the eight counties in northwestern Indiana formerly known as the "Northwestern Indiana marketing area," now in the Chicago Regional marketing area. It consists of the eight Indiana counties of Lake, Porter, La Porte, Starke, Marshall, St. Joseph, Elkhart, and Kosciusko.

Because of its proximity to other regulated markets to the south, east, and west, the question of appropriate regulation of the Northwestern Indiana area has been the subject of considerable debate on two occasions. Such controversies culminated in removing three townships of Lake County ("Calumet area") from regulation under the former Chicago order on April 1, 1965, to be made part of the Northwestern Indiana marketing area and, more recently on July 1, 1968, in including all eight Northwestern Indiana counties under the new Chicago Regional order.

Both local companies serving these counties and representatives of 90 percent of the producers supplying them complain that because such counties were placed under the Chicago regional order on July 1, the local handlers have been placed in an impossible competitive position both in distribution and in the procurement of milk supplies. Proponents estimate that, as the result of being pooled under Order No. 30, the producers' blend price at such plants will decrease an average 20 cents per hundredweight compared to prices previously received under the separate Northwestern Indiana order. This would result in a difference exceeding 30 cents when comparison is made to minimum blend prices computed under the Fort Wayne and Indianapolis orders.

The present complaint of the producers and handlers involved closely parallels the basis on which the townships in Lake County were transferred to the Northwestern Indiana marketing area in 1965. They ask for regulation of this area on terms comparable to the Indianapolis and Fort Wayne markets on the basis of the high degree of similarity in marketing conditions among the three markets.

These eight counties should be removed from regulation under Order No. 30 and included in the proposed Indiana marketing area.

The counties in question are the northernmost counties in Indiana. The most populous segments of this area are Lake County, which is nearest Chicago and contains Gary and Hammond, and St. Joseph County which contains South Bend.

Class I sales in the eight Northwestern Indiana counties are made mainly by 15 handlers with plants in these counties, the handler with a plant in Fulton County, and by several handlers regulated under other Federal orders, including the Fort Wayne and Indianapolis orders, and Chicago-based handlers. For example, Indiana-based handlers, who would be regulated by the proposed Indiana order, distribute in the aggregate about 70 percent of the 30 million pounds of total Class I sales in the eight counties. The remaining 9 million pounds of sales in the eight-county area are made from other plants now under the Chicago Regional order and by a partially regulated handler at Niles, Mich. More specifically, Indiana handlers, including these under the Fort Wayne and Indianapolis orders, have the following percentages of county sales: 69 percent in Elkhart County; 56 percent in Kosciusko County; 64 percent in Lake County; 91 percent in La Porte County; 100 percent

in Marshall County; 74 percent in Porter County; 52 percent in Starke County; and 91 percent in St. Joseph County.

In five of the counties—Elkhart, Kosciusko, Lake, Porter, and Starke—Chicago-based handlers distribute 31 percent, 45 percent, 36 percent, 26 percent, and 48 percent, respectively, of the county's Class I sales. Their sales in Lake County approximate 4 million pounds monthly and represent about half of all their milk sold in Indiana. The above percentages for the other counties represent relatively small amounts ranging from 300,000 to 600,000 pounds monthly per county. In the two other counties (La Porte and St. Joseph) Chicago handlers distribute less than 10 percent of the total sales.

Total route distribution from Chicago into all parts of Indiana amounts to less than 3 percent of the Class I sales of the Chicago market. While some Chicago order milk is distributed in a few counties of the Indianapolis marketing area, as well as in the Northwestern Indiana counties, in each such county the quantity is a di minimis portion of the county's needs. Chicago handlers have little route distribution in the Fort Wayne market.

Northwestern Indiana handlers, on the other hand, sell substantial quantities of milk in 21 of the 34 counties of the Indianapolis market and in 10 of the 12 counties of the Fort Wayne market. In the five counties of Montgomery, Miami, Vigo, Tippecanoe, and Tipton (Indianapolis area), Northwestern Indiana handlers distribute 28, 36, 36, 42, and 44 percent, respectively, of the total county sales. In the Fort Wayne market, Northwestern Indiana handlers have the following percentages of county sales: Steuben County, 21; Wells County, 36; De Kalb County, 37; Noble County, 44; La Grange County, 54; and Wabash County, 59. The percentages of total sales held in the four remaining counties vary from 5 to 19 percent. Little milk is distributed by Northwestern Indiana, Indianapolis, or Fort Wayne handlers westward beyond the Indiana State boundary.

The recent inclusion of the Northwestern Indiana market in the Chicago Regional order has caused major competitive problems for the 12 small local handlers. These handlers distribute amounts ranging from 225,000 to 1.5 million pounds of milk per month. While this market, like other markets in Indiana and Ohio, purchases occasional supplemental supplies of plant milk from Wisconsin or Minnesota, which milk sometimes is from plants now under the Chicago Regional order, they rely mainly on direct-ship milk from nearby farms which is procured in close competition with primary supplies for Fort Wayne, Indianapolis, and the Ohio markets of Cincinnati, Miami Valley and Northwestern Ohio.

The difficulty faced by the Northwestern handlers as the result of regulation under the Chicago Regional order is the decrease in the uniform price to their producers. The average percentage of Class I utilization in Chicago order plants is significantly less than the average utilization of Northwestern Indiana plants. Consequently, their uniform prices under the Chicago Regional market will be lower than the uniform prices as computed under the former Northwestern Indiana order. Even with a location differential of plus 14 cents per hundredweight at South Bend under the new Chicago Regional order as compared to the price f.o.b. at Chicago, the uniform price at Northwestern Indiana plants is expected to average more than 30 cents below the prices received by Indiana producers shipping to Fort Wayne or Indianapolis.

There is no substitute supply of direct-ship milk within reasonable distance which is not also keenly sought by the Fort Wayne, Indianapolis, and nearby Ohio markets having higher uniform prices. Therefore, to maintain the local milk supplies while under the Chicago Regional order, the small Northwestern Indiana handlers must either make up such difference through payment of premiums over order blend prices, or purchase plant supplies of Wisconsin or Minnesota milk to replace the locally produced milk.

Actually, the latter alternative is not a practical one in view of the small size of these plants. Inquiries made by local handlers of long distance haulers have revealed the reluctance of haulers to move milk such distances in the small volumes needed, except at prohibitive expense to the purchaser. Thus, the additional cost of an alternative supply in this manner, if obtainable at all, would be as great or greater than the premiums necessary to hold local milk supplies. Either choice places such handlers in a noncompetitive position in their distribution and supply procurement.

Moreover, while the Fort Wayne and Indianapolis handlers are their main competition, these smaller handlers individually do not have sufficient proportions of their sales in the Fort Wayne or Indianapolis markets to qualify them for regulation in either market under any reasonable pooling standard. The two largest local handlers serving Northwestern Indiana are, however, in position to avoid the increased cost experienced by the smaller handlers even if no change in marketing areas is effected as the result of this hearing. As previously stated, one has already transferred his plant to the Indianapolis market as the result of inclusion of the Northwestern Indiana counties under the Chicago Regional order. The other, who has a large proportion of his business in the Fort Wayne market, announced his intention to transfer his plant to that market.

By making such transfers these two handlers can remain competitive in distribution and continue to procure milk supplies on comparable price terms with the competing Indianapolis, Fort Wayne and nearby Ohio markets. This will have the effect, however, of compounding further the competitive difficulties in both distribution and procurement of the remaining smaller handlers in Northwestern Indiana unless the latter also are afforded a similar basis of regulation.

Obviously the Northwestern Indiana handlers are on the fringe of the Chicago supply and distribution system and are not in position to take advantage of the supply services of that market on a basis comparable to other handlers under the Chicago Regional order. They are not regulated in a way which insures a milk cost comparable with their main competition. They are in a different position in this regard than other Chicago Regional handlers who compete largely within a single milkshed (price area) where alternative supplies of milk are readily available without substantial increase in cost. While the continuation of uniform pricing among handlers in the Northwestern Indiana market is needed, the pricing plan should be one which provides the small local handlers a basis for selling and for procuring supplies comparable with their principal competition. Inclusion of the Northwestern Indiana counties in the Indiana marketing area will achieve this result.

After allowing for transfer of the two larger Northwestern Indiana plants which may be expected regardless of any amendment action (and would diminish by nearly one-half the volume of milk of the handlers formerly under the Northwestern Indiana order), removal of the Northwestern Indiana area from the Chicago Regional order should affect the Chicago order uniform price by less than 1 cent per hundredweight.

Although some of the route disposition of handlers to be regulated will extend beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to stretch the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass the great bulk of the fluid milk sales of handlers to be regulated.

All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

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

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk

at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market.

It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

(2) *Class prices and differentials.* Class I and blend prices should be subject to adjustments according to plant locations both in and outside the marketing area. The aggregate returns to producers from Class I milk should remain at present levels.

Proponent cooperatives proposed varying Class I and blend prices both within and outside the marketing area according to plant locations. The "base" pricing zone in Indiana would be the present Indianapolis marketing area together with six adjacent counties now unregulated. A second pricing zone would be the present Fort Wayne marketing area. The third pricing zone would be the eight counties of the former Northwestern Indiana marketing area, the remaining four unregulated counties proposed for regulation, and Cass and Berrien Counties, Mich.

Under the producers' proposals the Class I price differentials (over the basic formula price) per hundredweight for these respective zones would be set at $1.47, $1.40, and $1.38, including the 20-cent temporary increase in differential effective through April 1969. Under the cooperatives' proposal the supply-demand adjustor currently effective in the Fort Wayne and Indianapolis orders would be removed. With the exception of the State of Ohio and other counties of Indiana and Michigan where no location adjustments would apply, prices at plants outside such areas would be fixed in relation to the price at Indianapolis at a rate of minus 1.5 cents per hundredweight for each 10 miles of distance of the plant from Indianapolis.

For Fort Wayne and Indianapolis the producers' proposed Class I price levels would be the same as in the present orders without effect of the supply-demand adjustment which averaged plus 2 cents per hundredweight for the period January 1967 through July 1968. At the hearing one of the proponents, a Fort Wayne cooperative, suggested that the Class I price differential at Fort Wayne area plants be increased to $1.43. For Northwestern Indiana, the proposed $1.38 Class I price differential compares to similar differentials under the Chicago Regional order of $1.34 for the South Bend location and $1.38 at New Paris, Ind.

Handlers throughout the proposed marketing area were generally in accord with the producers' price proposals.

Certain cooperatives and handlers from Ohio markets testified in support of somewhat higher Class I price differentials for the Indiana market than those proposed by proponent Indiana cooperatives on the basis that a better competitive relationship between Indiana handlers and handlers in Ohio regulated markets would result.

In establishing the appropriate Class I price over the wide marketing area to be covered by the proposed Indiana order, consideration must be given not only to the general level needed to encourage an adequate supply in total but also the extent to which price differences are necessary within the marketing area to achieve an appropriate allocation of available milk supplies for efficient marketing.

The general level of prices which has been effective in these markets has contributed to achievement of a reasonable balance between producer milk supplies and Class I needs. During 1967, Indianapolis handlers utilized, on the average, 77 percent of producer milk receipts in Class I. Comparable percentages for Northwestern Indiana and Fort Wayne handlers were 81 and 71 percent, respectively. On a consolidated basis, Class I use in these markets averaged 76.7 percent of aggregate producer receipts in 1967 and 75.7 percent during the first 6 months of this year.

The producers' proposal for location pricing by zones should be modified to include the four counties of Carroll, Cass, Miami, and White in the same pricing zone as Fort Wayne and to establish a fourth pricing zone which would include the Indiana counties of Elkhart, Kosciusko, Benton, Fulton, Jasper, Marshall, Newton, Pulaski, and St. Joseph, and the Michigan counties of Berrien and Cass. Such zone includes the cities of Elkhart, Mishawaka, New Paris, Rochester, and South Bend. The establishment of an additional location pricing area and westward extension of the Fort Wayne pricing area reduces slightly past price differences between Indianapolis and plants at Logansport and Rochester. The adjustments of 4 and 8 cents adopted herein would reduce location differentials for plants at these points by 6 and 5 cents, respectively, relative to Indianapolis plants. Further, for plants at New Paris, South Bend, and Elkhart the differential would be 8 cents as compared to 4 cents for plants at Fort Wayne.

Specifically, the schedule of Class I price differentials within the expanded marketing area is as follows: Indianapolis "zone," $1.47; Fort Wayne "zone," $1.43; Elkhart-New Paris-Rochester-South Bend "zone," $1.39; Gary-La Porte-Valparaiso "zone," $1.35. These prices reflect adjustments for plant location so as to encourage an appropriate allocation of available supplies. While such price differentials are slightly at variance with the producers' proposals, the aggregate returns for Class I milk would be maintained at approximately the present level for the entire area after allowing for the amount (average 2 cents per hundredweight) which resulted from the supply-demand adjustor.

No location adjustments would apply for plants in the State of Ohio, or in Indiana south of the present Indianapolis marketing area. Ohio locations have no location adjustment under the present Indianapolis order. Similarly, much of the area in Indiana south of the present Indianapolis marketing area is in the zero zone. Virtually all the remainder is part of the Louisville-Lexington-Evansville marketing area which has a higher minimum Class I price level.

Location adjustments for milk received at plants located outside the States of Indiana and Ohio, and outside Berrien and Cass Counties, Mich., should be computed at the rate of 1.5 cents per hundredweight for each 10 miles from the plant to the nearest of several basing points in the marketing area. These basing points should be Monument Circle, Indianapolis, and the main post offices in Fort Wayne, South Bend, and Valparaiso, Ind. Use of these basing points will insure reasonable allowances for transporting distant milk to each consuming center of the marketing area.

The Class I price applicable at the various locations in the market must have, of course, a reasonable relationship to Class I price levels in markets competing for supplies and sales after taking transportation costs into account. As previously indicated, there is a substantial intermarket relationship in these respects with nearby markets in Illinois, Ohio, Michigan, and Kentucky. The price levels adopted for locations within the marketing area will reflect the gradual increase in fluid market price levels from the heavy producing areas to the west and the costs of hauling in moving milk eastward from such areas.

Annual Class I price differentials at selected points in the marketing area would be as follows (also including the emergency 20-cent price increase effective through April 1969): Gary, $1.35; Elkhart, New Paris, Mishawaka, Rochester, and South Bend, $1.39; Fort Wayne, $1.43; and Indianapolis, $1.47. These may be compared with current Class I price differentials in other nearby markets, as follows:

Chicago Regional (f.o.b. Chicago)	$1.20
Chicago Regional (at South Bend)	1.34
Central Illinois	1.39
Southern Michigan (at Niles)	1.51
Louisville-Lexington-Evansville [1]	1.61
Miami Valley [1]	1.64
Northwestern Ohio	1.70
Cincinnati [1]	1.74

[1] Differentials for Cincinnati, Louisville-Lexington-Evansville, and Miami Valley include their 1967 average supply-demand adjustments which increased the differentials 20, 12, and 20 cents, respectively.

The Class II price formula adopted is the same as that which has been effective under both the Indianapolis and Fort Wayne orders. Although the description of the formula computation has been modernized, the resulting level of pricing is not changed. Such formula is appropriate under the supply conditions in Indiana which leave only relative small and erratic volumes of milk available at pool distributing plants for processing into manufactured milk products.

An exception to the above-stated price differentials for principal localities within the marketing area was taken by certain dairy companies under the Northwestern Ohio Federal order. The exception complained that adoption of such Class I price differentials "only aggravates the present dislocation between

Indiana and Ohio Class I prices." Particular reference was made to price relationships between Toledo and Wauseon in Ohio, and Fort Wayne and Elkhart in Indiana.

The minimum Class I price adopted for Fort Wayne has been increased 3 cents per hundredweight above the level provided in the present Fort Wayne order. It is similarly higher than the level proposed for Fort Wayne by proponents of the Indiana order. The level adopted for Elkhart is 5 cents per hundredweight above the present (Chicago Regional order) level for such location and 1 cent higher than that proposed by order proponents.

The new minimum price levels at these locations therefore are slightly higher than has been the case for many years. We cannot conclude that this action would be an "aggravation" to competition with markets to the east. Further, after consideration, it was concluded in the recommended decision that an adequate supply of pure and wholesome milk is available at the prices adopted within the marketing area. In the circumstances, the Class I price differentials for the marketing area should not be increased further.

A cooperative which opposed the removal of the eight northwestern Indiana counties from the Chicago Regional order excepted to the failure of the recommended decision to reflect in the Class I price differential on a permanent basis the emergency 20-cent price increase currently effective through April 1969. The cooperative objected to the possibility that the Class I price differentials for northwestern Indiana plants could be lower than under the Chicago Regional order in the event the emergency 20-cent price increase is terminated.

Present Class I price differentials for plants in these counties, adjusted to reflect location differentials, are higher than provided under the Chicago Regional order for such locations. The emergency 20-cent price increase is now in effect and continues through April 1969. Obviously, proposals on the appropriate level of the Class I price could be submitted and considered prior to the expiration date of the temporary price increase. The reasons in support of a price level different than would result from a Class I price differential of $1.27 could be judged in light of the then prevailing marketing conditions. The possible circumstance cited by exceptors should not deter, however, the early issuance of the Indiana order when the condition of which exceptor complains does not currently exist.

The Class II price formula adopted is the same as that which has been effective under both the Indianapolis and Fort Wayne orders. It is basically the Minnesota - Wisconsin manufacturing milk price series, but is limited to a level determined by a "butter-nonfat dry milk price" formula. Although the description of the formula computation has been modernized in this decision, the resulting level of pricing is not changed.

An exception was taken to continuing the "butter-powder" snubber as part of the Class II price formula. Exceptor contends that use of the snubber does not promote a basic objective of the Agricultural Marketing Agreement Act of 1937 because it "would create conditions productive of disorderly marketing." In support of this position exceptor filed excerpts from an analysis of manufacturing grade milk prices in Minnesota and Wisconsin made by the University of Wisconsin to show that use of the Minnesota-Wisconsin price series as the Class II price would provide a Class II price more equitable to major areas of manufacturing milk supply. It was requested that official notice be taken of such study.

The rules and regulations governing hearing procedure prohibit official notice being taken of the factual information supplied in connection with the exception. As shown by the hearing record, however, the snubber in the Class II formula has prevailed under both the Indianapolis and Fort Wayne orders for several years. It was adopted because, under the conditions prevailing in these markets with respect to reserve milk supplies, it would facilitate the handling of relatively small quantities of reserve milk with benefit to the local industry and without apparent detriment to other areas. The snubber is particularly suited to an area, such as Indiana, where the principal outlet for the unwanted reserves of fluid milk plants is butter-nonfat dry milk manufacture and alternative product uses are virtually nonexistent. The present record contains no evidence of disturbance to any other area. Consequently, it is concluded that the snubber continues to be appropriate under the supply conditions existing in Indiana.

The butterfat differentials on both classes of milk are the same as have been effective under the Indianapolis order.

Class II prices and butterfat differentials have varied only slightly under the separate orders for Indiana markets. No questions were raised as to the propriety of applying the Indianapolis Class II price formula and butterfat differentials to the expanded market.

(3) The provisions for the diversion of producer milk should be revised.

The major cooperative associations serving the expanded market proposed that both proprietary handlers and cooperative handlers be permitted to divert producer receipts on a percentage basis in addition to the present basis which relates allowable diversions to the number of days the production of the producer is received at a pool plant. These alternative bases for diversion are used in the present Fort Wayne order.

Specifically, a cooperative association could divert milk of member producers to nonpool plants up to 35 percent of the milk of its producer members received at all pool distributing plants during the month for each of the months of September through March. Similarly, a proprietary handler could divert up to 35 percent of the total producer milk received at all pool distributing plants during the month for such period, exclusive of milk diverted from his plant by a cooperative. Such diversions of the milk of any producer to a nonpool plant would be permitted if at least one day's production of the milk of such producer were received at a pool plant during the month.

Under the present Indianapolis order provision for diversions to nonpool plants, handlers may divert on an unlimited basis during the months of April through August, but in any other month diversions may not be made on more days than the production of the producer is received at a pool plant.

The addition of the percentage basis for diversions, proposed by cooperatives, will add needed flexibility in diversions by handlers and cooperatives in this expanded market. Such provision will assist cooperatives and handlers to achieve maximum use of available producer milk in Class I through more economical handling practices. In view of these considerations, the proposal to permit cooperatives and proprietary handlers to make aggregate diversions up to 35 percent of producer milk should be adopted. A similar provision utilized under the current Fort Wayne order has met with approval by both cooperative and proprietary handlers. Milk of a producer eligible for diversion to a nonpool plant should be received at a pool plant each month, however, in an amount representing not less than 1 day's production. This will insure that the milk remains qualified for and available to the market.

A cooperative or proprietary handler diverting milk in excess of the percentage limit would be required to designate those producers whose milk must be excluded from the pool when the allowable diversion limit is exceeded. If the handler fails to designate those producers whose milk is ineligible, making it infeasible for the market administrator to determine which milk was overdiverted, all milk diverted to nonpool plants by such handler should be excluded as producer milk.

Diverted producer milk should be priced at the location of the pool or nonpool plant to which the milk is diverted, except when diverted to a plant located in the marketing area. Diversions made within the marketing area should be priced at the location of the pool plant from which the milk is diverted.

In accordance with the plan of location pricing, diverted milk should be priced at the plant of receipt. An exception should be made, however, in pricing diversions made within the marketing area. Most diversions between marketing area plants will take place within the same pricing zone and consequently will raise no question as to the appropriate point of pricing. However, there will be diversions between plants in the marketing area which would involve changes in pricing for producer milk.

One of the major outlets for milk in excess of the fluid requirements of pool distributing plants is a balancing plant operated by a cooperative at Fort Wayne. This plant is in an intermediate pricing zone within the marketing area. Unless milk diverted to this plant from other marketing area plants is priced at the pool plant from which diverted, those

producers whose milk normally is required in the Indianapolis pricing zone but is diverted to the Fort Wayne plant would receive a lower blend price due to the location adjustment at Fort Wayne. As the result those producers whose milk is involved in the diversion would be burdened with more than their share of the cost of moving excess reserve milk at Indianapolis plants to manufacturing. Contrarily, producers in a price zone lower than that of the Fort Wayne plant could gain an advantage simply by having their excess milk diverted to the Fort Wayne plant rather than to a plant within the same zone. These results can be avoided by pricing diversions within the marketing area at the location of the pool plant from which diverted.

A cooperative that operates a nonpool manufacturing plant proposed that the definition of producer milk include a provision to allow transfers from its plant to pool distributing plants for Class I use as an offset to diversions of producer milk during the month from pool distributing plants to its plant. It was contended that Indiana market producers should receive prior claim on any Class I sales made from pool plants before the assignment to Class I of transfers from the nonpool plant. Under the proposal, transfers of other source milk from the nonpool plant would be classified and priced as Class I only to the extent that it exceeded the quantity of producer milk diverted to the cooperative's plant during the month.

Since August 1, 1964, all Federal orders require the assignment of receipts at a Federal order pool plant of manufacturing grade milk to available use in Class II. In the event such milk is assigned to Class I, a payment into the producer-settlement fund at the difference between the Class I price and Class II price is required. This insures that the Class I value is returned to regular producers for any of their milk replaced by such transfers. Since the record reveals no reason for special regulatory treatment for such transactions, the proposal is denied.

(4) *Miscellaneous administrative and conforming changes*—(a) *Definitions.* The term "producer" should be modified slightly from the definition presently included in the Indianapolis order so as to set forth more clearly the requirements for "status" as a producer under the Indiana order.

A "producer" should be defined as any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority or milk acceptable for fluid consumption at Federal, State, or municipal institutions, which milk either is received at a pool plant or diverted under specified conditions. This definition, which is somewhat broader than that in the present Indianapolis order, includes the criteria for identifying a producer set forth in the Indianapolis and Fort Wayne orders. This is required for applicability to the expanded market. The definition would exclude, however, any person with respect to milk fully subject to the class pricing and producer payment provisions of another order.

Producers and certain handlers proposed changes in the definition of a "fluid milk product" to exclude yogurt. They would specify also that to be excluded from the definition any sterilized product must be in an hermetically sealed glass or metal container. Such definition would be revised to specify reconstituted and concentrated skim milk also. These changes will clarify the definition and reconcile present differences in the classification of products under the separate orders. The proposed changes are adopted.

The definition of "route" should be clarified with respect to movements of fluid milk products to other plants. Presently, such movements as fluid milk products in bulk or packaged form to other plants are not included under the definition of "route." This should be changed so as to exclude only those movements of bulk fluid milk products to any milk processing plant. This will accommodate more fully the custom packaging of fluid milk products for other handlers which is practiced in this market and will be in the interest of efficiency in processing operations.

(b) *Plant requirements for pooling.* The pooling requirements for distributing plants and supply plants presently provided in the Indianapolis order should be adopted for the expanded order, subject to minor changes.

Proponent cooperatives and handlers supported adoption of the Indianapolis pool plant provisions for the expanded order. Currently, a distributing-type plant qualifies by disposing of 50 percent of its total receipts from producers and pool supply plants on routes with at least 10 percent of such receipts disposed of in the marketing area on routes. Such requirements are herein continued subject to clarification of the present provisions and the addition of the following provision.

The pooling requirements for a distributing plant should be expanded to provide greater flexibility in monthly disposal requirements to avoid loss of pool status due to temporary changes in receipts or sales at the distributing plant. This can be accomplished by providing that a distributing plant which has met the 50 percent performance requirement in either the current or immediately preceding month and meets the minimum in-area route disposition requirement (i.e., 10 percent of total receipts at such plant) in the current month may retain pool status.

There are circumstances, such as minor changes in receipts or Class I sales, which may cause a distributing plant difficulty in meeting the 50 percent route disposition requirement for a particular month. The 2-month basis for meeting the pooling requirement for a distributing plant will minimize the occasions of inadvertent loss of pool plant status.

Also, the definition of a pool distributing plant should be clarified to insure that receipts of milk by diversion from other pool distributing plants will not be counted as producer receipts in determining percentages for qualification purposes. Milk received in such manner is a part of the normal supply of milk for the diverting handler and is included in his receipts. There are no supply plants in the market at this time. However, supply plant receipts may be a normal source of supply for the Class I needs of pool distributing plants. Consequently, any such receipts should be included in the receipts base for the purpose of determining the percentages of receipts sold on routes.

The cooperatives and handlers also proposed continuance of the main requirements for pooling supply plants which are provided in the Indianapolis order. Essentially, these provisions require the shipment each month of at least 50 percent of plant receipts of Grade A milk as fluid milk products to pool distributing plants. Qualifying shipments from supply plants, however, should be in the form of milk or skim milk since these are the products which would be needed to supplement direct-ship supplies in this market. A supply plant which meets the 50 percent shipping standard each month of September through February is automatically designated as a pool plant for the succeeding months of April through August (unless a written request for nonpool status is submitted to the market administrator). These percentage requirements are basically comparable with those in other nearby Federal orders.

One exceptor urged adoption in the Indiana order of the somewhat lower Chicago Regional order standards for supply plant qualification. In addition, it was contended that sales from Chicago Regional order supply plants to Northwestern Indiana distributing plants (currently under the Chicago Regional order) should be counted in qualifying a supply plant under the Chicago Regional order. A supply plant would be pooled, however, in the market where it makes the greater sales. This exceptor contended that the loss of bulk sales to Northwestern Indiana distributing plants which would be regulated by this order could affect the ability of certain Chicago Regional order supply plants to qualify as pool plants under such order.

The current minimum shipping requirement has been the accepted standard under the Indiana orders over a considerable period. While the Indiana markets involved have relied mainly on nearby direct-ship for most of their fluid requirements, there have been times when supply plants have associated with these markets. There was no evidence on the record of any past pooling qualification problems. The current minimum standard is in line with that of other markets having comparable patterns of utilization. Under the circumstances, no change should be made on the basis of this record.

The exceptor to the supply plant standards raised the further issue, referred to above, that certain Chicago Regional order supply plants could fail to qualify under that order if sales to

distributing plants in the Northwestern Indiana area were not credited to them.

No specific problem in this regard was cited in the record. The record contains insufficient basis for any major change in pooling standards for supply plants under either an Indiana order or the Chicago Regional order. Any supply plant which has met the pooling standards under the Chicago Regional order for each month of August through December 1968 will qualify automatically under that order through July 1969. The intervening period permits sufficient time for interested parties to observe the operation of supply plants with respect to these markets and, if necessary, to request further consideration of supply plant standards prior to the next qualifying period. Consequently, if market conditions change so as to affect the basis of pooling, consideration can be given at another hearing to revising supply plant standards.

Producers proposed, however, to eliminate the special provision of the Indianapolis order which permits a supply plant to qualify during the months of April through July by meeting the delivery performance standards in each of the preceding months of August through March as a supply plant or distributing plant, and for December through March by meeting the supply plant requirements. This provision for supply plant qualification was adopted in May 1962 to accommodate a particular circumstance, that of a pool distributing plant which had discontinued its bottling operations but continued in the market for a time as a supply plant. They pointed out that with the closing of the plant for which the provision was developed, no purpose is served by continuing it in the order. Since the provision is obsolete, it is deleted from the order.

Provision should be made to exclude from pooling a supply plant which meets the pooling requirements of another order as well as those of this order, when greater shipments are made to plants regulated by such other order. This will assure that any supply plant which associates milk with the pool will be regulated under this order only if the plant continues its association with this market during each month. This is important in view of the automatic pooling provisions provided for in this and other nearby orders. As previously indicated there are no supply plants associated with this market at present.

(c) *Transfer provisions.* The present Indianapolis order interplant transfer provisions are adopted for the expanded order, except that the provision which requires a Class I classification on transfers or diversions of fluid milk products to nonpool plants located 300 miles or more from Indianapolis should be removed.

A Wisconsin cooperative, representing a number of producers supplying the Indiana market, proposed elimination of the mileage limitation on the transfer or diversion of fluid milk products to nonpool plants as Class II milk. It was the cooperative's position that savings could accrue on distant producer milk diverted to Wisconsin plants when not needed by local handlers for their fluid milk requirements by avoidance of the additional transportation cost involved in moving milk to plants within a 300-mile radius of Indianapolis. The cooperative pointed to the fact that there are adequate manufacturing facilities available in the Wisconsin segment of the production area to handle such reserve supplies of milk.

The present Indianapolis transfer provision which permits transfers or diversions to nonpool plants located 300 miles or more from Indianapolis only as Class I milk was made effective July 1, 1963. At that time the mileage limit was extended from a 150-mile radius which originally had prevailed under the order but had been suspended to permit diversion to more distant plants. It was found that an area within 300 miles of Indianapolis included all the regular manufacturing outlets needed for Class II disposition under the prevailing supply and marketing conditions, and that with adoption of the provision undue expense of audit verification by the market administrator could be avoided. Also, all producer farms delivering milk to the market then were located within 150 miles of Indianapolis.

The production area for the proposed Indiana market encompasses a substantially larger area than did the milkshed for the Indianapolis market at the time of the June 1963 amendment. The Indiana market milkshed extends well into the heavy milk production areas of central and western Wisconsin. About 17 percent of all producer farms (representing about 16 percent of total producer milk received by plants in the Indiana market) are located in central and western Wisconsin.

Manufacturing plants in the Wisconsin portion of the production area near producer farms supplying milk for the Indiana market may be located more than 300 miles from Indianapolis. These plants serve as readily available outlets for the reserve milk of this market associated with the producer supplies located in Wisconsin.

It is in the interest of efficient marketing of producer milk, therefore, to permit the movement of reserve supplies to manufacturing facilities wherever located. Consequently, the current Indianapolis provision which provides for transfers or diversions only as Class I milk if moved to a nonpool plant 300 miles or more from Indianapolis is not included in this amended order.

(d) *Application of seasonal incentive (Louisville) plan.* The current seasonal incentive payment provisions under the Indianapolis order should be continued and made applicable to the expanded market following the current pay-back period to expire December 31, 1968.

Producers supplying all segments of the market supported application of such Indianapolis order provisions. These provisions provide for the withholding by the market administrator of 8 percent of the average monthly basic formula price for the preceding calendar year, but not to exceed 30 cents, with respect to each hundredweight of producer milk delivered to the market during each month of April through July. Pay-back to producers of the aggregate monies accumulated during the months of April through July is made at a monthly rate of 25 percent in each of the months of September through December.

Currently, the seasonal incentive payment provisions of the Fort Wayne order differ from the provisions of the Indianapolis order with respect to both the rates of take-out and pay-back and the operating months. Although the Northwestern Indiana order contains no such provisions, the principal cooperative for that market has operated its own seasonal incentive payment plan.

The seasonal incentive payment plan provides a continuing inducement to dairy farmers to increase production during the period of greatest Class I demand relative to supply and highest seasonal production cost. The uniform rate of take-out and pay-back herein provided for this expanded area should continue to induce dairy farmers to increase fall production in relation to spring production and thus encourage a more even pattern of milk deliveries throughout the year. Identical rates of "take-out" and "pay-back" throughout the common production area should eliminate unnecessary shifting of producers merely to take advantage of the different rates of "take-out" and "pay-back" which has occurred at times under separate orders.

(e) *Other administrative provisions.* The "equivalent price" provision should provide for the determination by the Secretary of an equivalent for any pricing factor, as well as any price, required by the provision of the order which is not available in the manner described. There may be unavoidable occasions when a factor ordinarily employed becomes unavailable. Provision for such determination will remove uncertainty as to the procedure to be followed in the absence of any such factor specified in the provisions of the order and thereby avoid potential interruption in the operation of the order and its important pricing function.

Producers' proposal to include the present provision under the Fort Wayne order, requiring the payment of interest on amounts due from handlers to the market administrator and from the market administrator to handlers for each month or portion thereof that such obligation is overdue, should be adopted in part.

Interest charges to handlers on overdue obligations will encourage prompt payments, which are essential to efficient operation of the order. The recommended one-half of 1 percent per month rate with respect to any such unpaid order obligation is an appropriate and reasonable payment for each month or fraction thereof that the obligation is past due. Any unpaid portion of a handler obligation would be increased by the same rate on the first day of the month following the due date under the order and on the first day of each succeeding month until paid. This procedure should

provide a reasonable time to make payments prior to the application of interest. There should be no payment of interest by the market administrator, however. His payments to handlers involve mainly producer monies. The market administrator collects such monies from some handlers and pays out to others. The recipient handlers are permitted by the order to reduce payments to their producers by amounts due from the market administrator until paid by him.

All currently regulated handlers who have contributed to the administrative funds of the separate orders will continue to be regulated under the new order. In the interest of effective and equitable administration, the assets in the administrative funds which have accrued under the Indianapolis and Fort Wayne orders should be made available to the market administrator of the Indiana order for carrying out its terms and provisions. A similar procedure should be followed with respect to the reserves in the respective marketing service funds. The corresponding funds which accrued prior to July 1, 1968, under the Northwestern Indiana order (which presently are held by the market administrator of the Chicago Regional order), should be made available to the market administrator of the Indiana order to be combined, respectively, with the corresponding funds of the other two markets involved.

The producer-settlement fund reserves of the Indianapolis and Fort Wayne orders should be combined to establish a new producer-settlement fund reserve under the merged order. This sum should be augmented by the proportion of the unobligated producer-settlement fund reserve of the Chicago Regional order associated with and attributable to the milk of producers in the month preceding the first month in which such producer milk becomes regulated under the new order. In this manner, all producers delivering to plants to be covered by the new order will share proportionately in providing the monies for the necessary producer-settlement fund reserve under the expanded order.

The above procedure relating to the disposition of all the aforesaid administrative, marketing service and producer settlement funds is necessary and desirable to implement the amendments proposed herein and would insure equitable treatment to all interested parties.

Several provisions of the order have been redrafted to incorporate conforming and clarifying changes necessary to effectuate the findings and conclusions made herewith. Except for those amendments specifically discussed above, these changes do not affect the scope or substance of the Indianapolis order, renamed the Indiana order, or its application to any handler subject thereto.

Rulings on Proposed Findings and Conclusions

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

General Findings

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

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

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

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

(d) All milk and milk products handled by handlers, as defined in the orders as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the Indiana order for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to:

(1) Receipts of producer milk (including such handler's own farm production);

(2) Other source milk at a pool plant allocated to Class I pursuant to §§ 1049.46(a)(3) and 1049.46(a)(7) and the corresponding steps of § 1049.46(b); and

(3) Class I milk disposed of on a route(s) in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plants from pool plants and other order plants.

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

Marketing agreements and orders. Annexed hereto and made a part hereof are four documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Chicago Regional Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Indiana Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Chicago Regional Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Indianapolis, Indiana Marketing Area" (to be renamed Indiana Marketing Area), which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreements, be published in the Federal Register. The regulatory provisions of said marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the attached orders which will be published with this decision.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Indianapolis, Ind., marketing area, is approved or favored by the producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of September 1968 is hereby determined to be the representative period for the conduct of such referendum. Mr. Wendell M. Costello is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.), such referendum to be completed on or before the 30th day from the date this decision is issued.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed

that a referendum be conducted to determine whether the issuance of the attached order, as hereby proposed to be amended, regulating the handling of milk in the Chicago Regional marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of September 1968 is hereby determined to be the representative period for the conduct of such referendum. Mr. Ralph F. Mraz is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on December 5, 1968.

TED J. DAVIS,
Assistant Secretary.

Order[1] *Amending the Order Regulating the Handling of Milk in the Indianapolis, Ind., Marketing Area*

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1049.100 Separability of provisions.
1049.101 Agents.

AUTHORITY: The provisions of this Part 1049 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1049.0 Findings and determinations.

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

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, 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, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to (i) producer milk, including such handler's own farm production, (ii) other source milk at a pool plant allocated to Class I milk pursuant to §§ 1049.46 (a)(3) and (b)(3) and 1049.46 (a)(7) and (b)(7), and (iii) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Indianapolis, Ind., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

DEFINITIONS

§ 1049.1 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.).

§ 1049.2 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 or to perform the duties of the said Secretary of Agriculture.

§ 1049.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the U.S. Department of Agriculture.

[1] This order for the Indianapolis, Ind., marketing area (to be renamed "Indiana Marketing Area") shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1049.4 Person.

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

§ 1049.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

§ 1049.6 Marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of each of the Indiana counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

Adams.	La Porte.
Allen.	Lawrence.
Bartholomew.	Madison.
Blackford.	Marion.
Boone.	Marshall.
Brown.	Miami.
Cass.	Monroe.
Clay.	Montgomery.
Clinton.	Morgan.
Decatur.	Noble.
De Kalb.	Owen.
Delaware.	Parke.
Elkhart.	Porter.
Fayette.	Putnam.
Fountain.	Randolph.
Franklin.	Rush.
Fulton.	Shelby.
Grant.	Steuben.
Hamilton.	St. Joseph.
Hancock.	Starke.
Hendricks.	Tippecanoe.
Henry.	Tipton.
Howard.	Union.
Huntington.	Vermillion.
Jackson.	Vigo.
Jay.	Wabash.
Johnson.	Warren.
Kosciusko.	Wayne.
Lagrange.	Wells.
Lake.	Whitley.

§ 1049.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who in compliance with Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State, or municipal institutions, which milk is received at a pool plant or is diverted pursuant to § 1049.14. "Producer" shall not include any person with respect to milk which is fully subject to the class pricing and producer payment provisions of another order issued pursuant to the Act.

§ 1049.8 Handler.

"Handler" means:

(a) Any person is his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.14;

(c) Any person who operates a partially regulated distributing plant; or

(d) A producer-handler, or any person who operates an other order plant.

§ 1049.9 Producer-handler.

"Producer-handler" means a person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants: *Provided,* That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources used in his own farm production and the operation of the processing and distributing business are at the personal interprise and risk of such person.

§ 1049.10 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which fluid milk products are disposed of during the month on routes in the marketing area.

§ 1049.11 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk, cream, or skim milk to a distributing plant during the month.

§ 1049.12 Pool plant.

"Pool plant" means a plant specified in paragraph (a) or (b) of this section, except the plant of a producer-handler or a plant exempt pursuant to § 1049.61: *Provided,* That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition it shall not be considered as part of a plant qualified pursuant to this section.

(a) A distributing plant with:

(1) Total route sales, exclusive of packaged fluid milk products received from other plants, in an amount not less than 50 percent of Grade A milk received at such plant during the month from dairy farmers (excluding receipts of producer milk by diversion pursuant to § 1049.14) and supply plants, except that a plant meeting such percentage requirement for the preceding month may remain qualified under this subparagraph in the current month; and

(2) Route sales within the marketing area during the month of at least 10 percent of such receipts, such route sales to be exclusive of packaged fluid milk products received from other plants: *Provided,* That any plant meeting the requirements of this paragraph in each of the months of September through May, inclusive, shall continue to have pool plant status in the months of June, July, and August, immediately following if fluid milk products are disposed of from the plant in the marketing area on routes during such month.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to plants qualifying for the month pursuant to paragraph (a) of this section. A plant qualified pursuant to this paragraph in each of the immediately preceding months of September through February shall remain so qualified for the months of April through August unless written application is filed with the market administrator on or before the first day of any such month to designate such plant as a nonpool plant for such month and for each subsequent month through August during which it would otherwise not qualify under this paragraph.

§ 1049.13 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, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool supply plant that is not an other order plant or a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

§ 1049.14 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer, other than milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act, which is:

(a) Received at one or more pool plants during the month (milk may be diverted during the month by a handler from a pool distributing plant to another pool plant(s) for not more days of production of producer milk than is physically received at the diverting pool plant); or

(b) Received at a pool plant at least one day during the month and then

diverted by the operator of a pool plant or by a cooperative association to a nonpool plant during the month under any of the following conditions:

(1) During April through August the operator of a pool plant or a cooperative association may divert the milk production of a producer from a pool plant to a nonpool plant (other than that of a producer-handler) on any number of days during the month.

(2) During September through March the milk of a producer diverted by the operator of a pool plant or a cooperative association to a nonpool plant (other than that of a producer-handler) shall be limited to the amounts specified in subdivisions (i) and (ii) of this subparagraph:

(i) The operator of a pool plant may divert the milk of producers (except producer members of a cooperative association which is diverting milk under the percentage limit of subdivision (ii) of this subparagraph) for not more days of production of producer milk than is physically received at the diverting pool plant or he may divert an aggregate quantity not exceeding 35 percent of the milk of all such producers.

(ii) A cooperative association may divert the milk of its individual member producers for not more days of production of producer milk than is physically received at a pool plant or it may divert an aggregate quantity of the milk of member producers not exceeding 35 percent of all such milk either caused to be delivered to pool plants or diverted to nonpool plants by the cooperative association.

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk of the individual producer which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered producer milk.

(4) When milk is diverted to a nonpool plant in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess. In such instances the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(5) If, notwithstanding the provisions of this paragraph, diverted milk is fully subject to the pricing and pooling provisions of another Federal order, it shall not be producer milk under this order.

(c) Diverted milk shall be deemed to be received by the handler at the pool plant or nonpool plant to which the milk is diverted, unless diverted to a plant located in any part of the marketing area or to a plant at which no location adjustment would apply pursuant to § 1049.53, in which case such diverted milk shall be deemed to be received at the pool plant from which diverted.

§ 1049.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), "fortified" products, "dietary" milk products, concentrated milk or skim milk, reconstituted milk, skim milk, or milk drinks (plain or flavored), and cream or any mixture in fluid form of cream, milk or skim milk (except eggnog, yogurt, milk shake mix, frozen dessert mix, sour cream, aerated cream products, evaporated and plain or sweetened condensed milk or skim milk, and sterilized products packaged in hermetically sealed metal or glass containers).

§ 1049.16 Other source milk.

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

(a) Receipts during the month of fluid milk products, except: (1) Fluid milk products received from pool plants either by transfer or diversion, (2) producer milk (including own farm production), or (3) inventory of fluid milk products on hand at the beginning of the month;

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid milk products not otherwise accounted for.

§ 1049.17 Route.

"Route" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I pursuant to § 1049.41(a)(1) other than a delivery in bulk form to any milk processing plant.

§ 1049.18 Butter price.

"Butter price" means the average price per pound of Grade A (92-score) bulk creamery butter at Chicago, as reported for the month by the Department.

MARKET ADMINISTRATOR

§ 1049.25 Designation.

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

§ 1049.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1049.27 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 30 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties as market administrator and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

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

(d) Pay out of the funds provided by § 1049.86 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 1049.85 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly 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, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1049.30, 1049.31, and 1049.32, nor payments pursuant to §§ 1049.80, 1049.82, 1049.84, 1049.85, 1049.86, and 1049.88;

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

(h) Verify all reports and payments of each handler by audit 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, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The sixth day of each month, the minimum price for Class I milk pursuant to § 1049.51(a) and the Class I butterfat differential pursuant to § 1049.52(a), both for the current month, and the minimum price for Class II milk pursuant to § 1049.51(b) and the Class II butterfat differential pursuant to § 1049.52(b), both for the preceding month; and

(2) The 14th day after the end of each month, the uniform price pursuant to § 1049.71 and the butterfat differential pursuant to § 1049.72;

(k) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month;

(l) On or before the 14th day after the end of each month, notify each handler who reported pursuant to § 1049.30 of:

(1) The amount and value of his milk in each class computed pursuant to § 1049.46 and § 1049.70;

(2) The uniform price computed pursuant to § 1049.71; and

(3) The amounts to be paid by such handler pursuant to §§ 1049.82, 1049.84, 1049.85, and 1049.86 and the amount, if any, due such handler pursuant to § 1049.83;

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1049.46(a)(8) and the corresponding step of § 1049.46(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;

(n) 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 allocated pursuant to § 1049.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) 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

§ 1049.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler for each of his pool plants and a cooperative association with respect to milk for which it is the handler shall report to the market administrator for such month, in the detail and on forms prescribed by the market administrator as follows:

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

(1) Receipts of producer milk (including own farm production);

(2) Fluid milk products received by transfer or diversion from pool plants;

(3) Other source milk;

(4) A separate report of producer milk diverted pursuant to § 1049.14: *Provided,* That on or before the day prior to diverting producer milk pursuant to § 1049.14, each handler shall notify the market administrator of his intention to divert such milk, the date or dates of such diversion, and the plant to which such milk is to be diverted; and

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

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk on routes inside the marketing area; and

(c) Such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1049.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler specified in § 1049.8(c) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1049.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk.

§ 1049.32 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler, except a producer-handler and a handler exempt pursuant to § 1049.61, shall report to the market administrator in the detail and on forms prescribed by the market administrator, his producer payroll for that month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handlers payment, together with the price paid and the amount and nature of any deductions;

(b) Each handler, except one who elects to make payments pursuant to § 1049.62(a), operating a partially regulated distributing plant shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received the same information as required from handlers operating pool plants pursuant to paragraph (a) of this section.

§ 1049.33 Records and facilities.

Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

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

(d) Payments to producers or dairy farmers, as the case may be, and cooperative associations, including the amount and nature of any deductions and the disbursement of moneys so deducted.

§ 1049.34 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. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1049.40 Skim milk and butterfat to be classified.

Skim milk and butterfat which are required to be reported pursuant to § 1049.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1049.41 through 1049.46.

§ 1049.41 Classes of utilization.

Subject to the conditions set forth in §§ 1049.42 through 1049.46, 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 from the plant in the form of fluid milk products, other than those classified pursuant to paragraph (b) (2), (3), (4), and (5), of this section, except that fluid milk products which have been fortified by the addition of milk solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) Not specifically accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat contained in fluid milk products disposed of for livestock feed or in products which

are dumped, if the market administrator has been notified in advance and afforded the opportunity to verify such dumping;

(3) Skim milk and butterfat in fluid milk products delivered in bulk to and used at commercial food establishments devoted exclusively to the manufacture of bakery products, candy, or processed foods packaged in hermetically sealed glass or metal containers;

(4) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section;

(5) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month; and

(6) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1049.42(b) (2) and (3) for each pool plant, not to exceed the quantities calculated pursuant to subdivisions (i) through (vi) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat physically received direct from producers and milk received in bulk by diversion from another pool plant pursuant to § 1049.14;

(ii) Plus 1.5 percent of milk or skim milk received by transfer from other pool plants in bulk;

(iii) Plus 1.5 percent of receipts of milk or skim milk in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(iv) Plus 1.5 percent of receipts of milk or skim milk in bulk from unregulated supply plant, exclusive of the quantity for which Class II utilization was requested by the handler;

(v) Less 1.5 percent of bulk transfers of milk or skim milk to a pool plant of another handler; and

(vi) Less 1.5 percent of bulk transfers of milk or skim milk to nonpool plants.

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1049.42(b)(1).

§ 1049.42 Shrinkage.

The market administrator shall assign shrinkage to each handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat; and

(b) Prorate the resulting amounts among (1) skim milk and butterfat in other source milk received in bulk fluid form, exclusive of that specified in § 1049.41(b)(6) (ii), (iii), and (iv); (2) skim milk and butterfat in producer milk (excluding milk diverted to other plants pursuant to § 1049.14); and (3) skim milk and butterfat in bulk receipts of milk and skim milk including diversions or transfers from other pool plants, from other order plants and unregulated supply plants, exclusive of the quantities received from other order plants and unregulated supply plants for which Class II utilization was requested by the handlers, in excess of transfers of bulk milk or skim milk to other plants.

§ 1049.43 Responsibility of handler and reclassification of milk.

All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1049.44 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, otherwise as Class I milk, if transferred or diverted 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 § 1049.46(a)(8) and the corresponding step of § 1049.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1049.46(a)(3), 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 transferor handler received during the month other source milk to be allocated pursuant to § 1049.46(a) (7) or (8) and the corresponding steps of § 1049.46(b), the skim milk and butterfat so transferred 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 moved from a pool plant to a producer-handler.

(c) 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, 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 § 1049.30 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 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 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 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 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 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 utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk.

(d) 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 in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the 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 in bulk form shall be classified at Class II to the extent of the Class II 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, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product 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 § 1049.41.

§ 1049.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to this part and compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler. 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 the 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 the water originally associated with the milk solids.

§ 1049.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1049.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1049.41(b)(6);

(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, 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;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, 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) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1049.27(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1049.44(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. Any amount so subtracted shall be known as "overage";

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

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

MINIMUM PRICES

§ 1049.50 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 United States Department of

Agriculture for the month, rounded to the nearest full cent. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential computed at 0.12 times the butter price for the month and rounded to the nearest one-tenth cent. For the purpose of computing Class I prices from the effective date hereof through April 1969, the basic formula price shall be not less than $4.33.

§ 1049.51 Class prices.

Subject to the provisions of §§ 1049.52 and 1049.53, the minimum class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price for the preceding month plus $1.27, plus 20 cents through April 1969.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price computed pursuant to § 1049.50, but not to exceed an amount computed as follows:

(1) Multiply the butter price by 4.2;

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

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

§ 1049.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, class prices for the month pursuant to § 1049.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the butter price for the preceding month by 0.120.

(b) *Class II price.* Multiply the butter price for the month by 0.113.

§ 1049.53 Location differentials to handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in subparagraph (1)(i) of this paragraph, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1049.51(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to subparagraph (1) or (2) of this paragraph, respectively. For the purpose of this section and § 1049.73, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

(1) At any plant located within:

	Rate of adjustment per hundredweight (cents)
(i) The State of Ohio or any Indiana county not specifically named in subdivision (ii) through (iv) of this subparagraph	0
(ii) Any of the Indiana counties of: Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, La Grange, Miami, Noble, Steuben, Wabash, Wells, White, Whitley	4
(iii) Any of the Indiana counties of: Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, St. Joseph, and Berrien and Cass Counties, Mich	8
(iv) Any of the Indiana counties of: Lake, La Porte, Porter, Starke	12

(2) For any plant at a location outside the territory specified in the preceding subparagraph (1) of this paragraph, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Monument Circle, Indianapolis, Ind., or the main post offices of Fort Wayne, South Bend, or Valparaiso, Ind., and shall be 1.5 cents for each 10 miles or fraction thereof from such point plus the amount of the location adjustment pursuant to subparagraph (1) of this paragraph applicable at the respective point.

(b) For the purpose of calculating adjustments pursuant to this section, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1049.54 Use of equivalent prices.

If for any reason a price quotation or factor required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price or factor determined by the Secretary to be equivalent to the price or factor which is required.

APPLICATION OF PROVISIONS

§ 1049.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as the operator of a plant specified in paragraph (a), (b), or (c) of this section the provisions of this part shall not apply, except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator:

(a) A distributing plant from which the Secretary determines a greater proportion of fluid milk products is disposed of on routes in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided,* That a distributing plant which was a pool plant under this order in the immediately preceding month 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 on routes is made in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated by such other order;

(b) A distributing plant which meets the requirements set forth in § 1049.12(a) which also meets the requirements of another order on the basis of its distribution in such other marketing area and from which the Secretary determines a greater quantity of milk is disposed of during the month on routes in this marketing area than is so disposed of in such other marketing area but which plant is nevertheless fully regulated under such other order; and

(c) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1049.12(b) and a greater volume of fluid milk products is moved to pool distributing plants qualified on the basis of route sales in this marketing area.

§ 1049.62 Obligations of a handler 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 §§ 1049.30 and 1049.31(b) the information necessary to compute the amount specified in paragraph (b) of this section, he shall pay the amount computed pursuant to paragraph (a) of this section:

(a) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) 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 price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is greater.

(b) Except as a handler may elect the option pursuant to paragraph (a) of this section, an amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1049.70 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 an 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 weighted average 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 § 1049.70(e) and a credit in the amount specified in § 1049.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1049.30 and 1049.31(b) 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 § 1049.12(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 plant(s) included in the computations pursuant to subparagraph (1) of this paragraph and (ii) any payments made for such month to the producer-settlement fund of another order issued pursuant to the Act due to the plant being a partially regulated distributing plant under such other order.

DETERMINATION OF PRICES TO PRODUCERS

§ 1049.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler 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 § 1049.46(c), by the applicable class prices (adjusted pursuant to §§ 1049.52 and 1049.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1049.46(a)(10) and the corresponding step of § 1049.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.46(a)(5) and the corresponding step of § 1049.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1049.46(a)(3) and the corresponding step of § 1049.46(b); and

(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 volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1049.46(a)(7) and the corresponding step of § 1049.46(b).

§ 1049.71 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 § 1049.70 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1049.73;

(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 § 1049.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to 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 § 1049.70(e);

(f) Subtract not less than 4 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) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by a rate that is equal to 8 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but that is not more than 30 cents;

(i) Add for each of the months of September through December, one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding months of April through July;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations;

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1049.72 Butterfat differentials to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1049.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat and rounding the resultant figure to the nearest one-tenth cent.

§ 1049.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.53; and

(b) For purposes of computations pursuant to §§ 1049.82 and 1049.83 the weighted average price shall be adjusted at the rates set forth in § 1049.53 applicable at the location of the nonpool plant from which the milk was received.

PAYMENTS

§ 1049.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class II price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price adjusted pursuant to §§ 1049.72, 1049.73, and 1049.85, less any payment made pursuant to subparagraph (1) of this paragraph. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.83 for such

month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Each handler shall make payment to the cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay to each cooperative association, on or before the 10th day of the following month, for milk the handler receives during the month from a pool plant operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1049.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1049.62, 1049.82, 1049.84, and 1049.88 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1049.83, 1049.84, and 1049.88, except that any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1049.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1049.80 in accordance with the requirements of § 1049.71(i).

§ 1049.82 Payments to the producer settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1049.70 for such handler; and

(b) The sum of—

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1049.80; 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 price) with respect to other source milk for which a value is computed pursuant to § 1049.70(e).

§ 1049.83 Payment out of the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.82(b) exceeds the amount computed pursuant to § 1049.82(a). 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 become available.

§ 1049.84 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1049.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1049.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions 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 rendering such services.

§ 1049.86 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 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk, including such handler's own farm production, (b) other source milk at a pool plant allocated to Class I pursuant to §§ 1049.46(a)(3) and 1049.46(a)(7) and the corresponding steps of § 1049.46(b), and (c) Class I milk disposed of on a route in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1049.87 Termination of obligations.

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 be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following:

(1) The amount of the obligation;

(2) The months 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 or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation

are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

§ 1049.88 Overdue accounts.

Any unpaid obligation of a handler pursuant to § 1049.62, 1049.82, 1049.84(a), 1049.85(a), or 1049.86 shall be increased one-half of 1 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.

EFFECTIVE TIME, SUSPENSION OF TERMINATION

§ 1049.90 Effective time.

The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1049.91 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1049.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, 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 person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such 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.

§ 1049.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this 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.

MISCELLANEOUS PROVISIONS

§ 1049.100 Separability of provisions.

If any provision 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.

§ 1049.101 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.

Order[1] Amending the Order Regulating the Handling of Milk in the Chicago Regional Marketing Area

§ 1030.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and 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.

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

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

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as follows:

§ 1030.6 [Amended]

1. In § 1030.6, paragraph (b) is revoked.

2. Section 1030.85 is revised to read as follows:

§ 1030.85 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.84(b) exceeds the amount computed pursuant to § 1030.70: *Provided,* That 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 become available; *And provided further,* That during the first month an order is effective for the Indiana marketing area (Part 1049), the market administrator shall pay to the market administrator of the order regulating the handling of milk in the Indiana marketing area, for inclusion in the producer-settlement fund reserve of

such order, such portion of the unobligated balance in the producer-settlement fund reserve which is associated with and attributable to the milk of producers for the month prior to the effective date of the Indiana order and which is regulated under the Indiana order.

[F.R. Doc. 68-14732; Filed, Dec. 9, 1968; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 68-SO-94]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Troy, Ala., part-time control zone and the Troy, Ala., 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, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No 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 proposal 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 Troy part-time control zone would be designated as:

Within a 5-mile radius of Troy Municipal Airport; within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

The Troy transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Troy Municipal Airport; within 8 miles north and 5 miles south of the ILS localizer west course, extending from the 9-mile radius area to 12 miles west of the OM.

The U.S. Army is installing an instrument landing system and a GCA unit at Troy Municipal Airport to provide instrument training in support of the Army Aviation Center, Fort Rucker, Ala.

The proposed part-time control zone and the transition area designations are required to provide controlled airspace protection for IFR aircraft during climb to 1,200 feet above the surface and during descent below 1,500 feet above the surface. Three prescribed instrument approach procedures are proposed in conjunction with the designation of the part-time control zone and the transition area.

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

Issued in East Point, Ga., on November 29, 1968.

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

[F.R. Doc. 68-14675; Filed, Dec. 9, 1968; 8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Office of the Secretary

GEORGIA

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 State of Georgia, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

GEORGIA

Crawford. Polk.
Jefferson.

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 5th day of December 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-14701; Filed, Dec. 9, 1968; 8:47 a.m.]

Packers and Stockyards Administration

[P. & S. Docket No. 402]

MARKET AGENCIES AT UNION STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on February 23, 1968 (27 A.D. 256), continuing in effect to and including February 28, 1969, an order issued on June 22, 1966 (25 A.D. 820), authorizing the respondents, Market Agencies at Union Stock Yards, Chicago, Ill., to assess the current temporary schedule of rates and charges.

On November 15, 1968, a petition was filed on behalf of the respondents requesting authority to modify, as soon as possible, the current temporary schedule of rates and charges as indicated below, and requesting that the current schedule, as so modified, be continued in effect to and including February 28, 1969.

Petition for modification of tariff. Respondents, Market Agencies at Union Stock Yards, Chicago, Ill., respectfully request the Secretary of Agriculture for authority to modify their current schedule of charges, to become effective as soon as possible, as follows:

(1) Amend Items No. B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, and B-9 of section B to provide as follows:

SECTION B

SELLING CHARGES

B-1 Cattle:	
Consignments of 1 head and 1 head only	$1.90 per head.
Consignments of more than 1 head:	
First 5 head in each consignment	$1.70 per head.
Next 10 head in each consignment	$1.65 per head.
Each head over 15 head in each consignment	$1.60 per head.
B-2 Cattle, Maximum Charge:	
In no instance shall the charge for selling a consignment of cattle exceed the aggregate of $54.85 for the first 24,400 pounds, plus 20 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
B-3 Calves:	
Consignments of 1 head and 1 head only	$1.10 per head.
Consignments of more than 1 head:	
First 5 head in each consignment	$0.95 per head.
Next 10 head in each consignment	$0.80 per head.
Each head over 15 head in each consignment	$0.70 per head.
B-4 Calves, Maximum Charge:	
In no instance shall the charge for selling a consignment of calves exceed the aggregate of $54.85 for the first 24,400 pounds, plus 20 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
B-5 Bulls:	
Consignments of:	
1 head and 1 head only weighing over 1,000 pounds	$2.20 per head.
1 head and 1 head only weighing 700 to 1,000 pounds	$1.90 per head.
Consignments of more than 1 head:	
Each animal weighing 700 pounds or over	$1.90 per head.
All bulls weighing less than 700 pounds	Apply cattle rate.
B-6 Tagged Cattle:	
Suspects, Condemned Cattle, T.B. or Bang's Reactor	$2.45 per head.
B-7 Hogs:	
Consignments of 1 head and 1 head only:	
Each head weighing 250 pounds or over	$0.88 per head.
Each head weighing under 250 pounds	$0.73 per head.
Consignments of more than one head:	
First 10 head in each consignment	$0.63 per head.
Next 15 head in each consignment	$0.58 per head.
Each head over 25 head in each consignment	$0.53 per head.
B-8 Hogs, Maximum Charge:	
In no instance shall the charge for selling a consignment of hogs exceed the aggregate of $44.30 for the first 18,000 pounds plus 21 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
B-9 Boars:	
Consignments of 1 head and 1 head only	$1.10 per head.
Consignments of more than 1 head:	
First 10 head in each consignment	$1.00 per head.
Each head over 10 head in each consignment	$0.85 per head.

(2) Amend Section F to provide as follows:

SECTION F

RESALES

On livestock purchased on this market by registered traders, or registered market agencies, and without having been removed from this market, resold for account of such purchaser, and commission shall be $1 per head on cattle (other than bulls 700 pounds or over), $1.20 per head on bulls 700 pounds or over, $0.45 per head on calves, $0.35 per head on hogs (other than boars), $0.65 per head on boars, and $0.15 per head on sheep or goats, plus extra service charges provided in Section E.

(3) Amend Section G to provide as follows:

SECTION G

INTERNATIONAL LIVE STOCK EXPOSITION, CHICAGO FEEDER CATTLE SHOW, AND FEEDER CATTLE AND CALF AUCTION SALES

In addition to the regular charges, the following service charges shall be made on all livestock entered and/or exhibited in the International Live Stock Exposition or in the Chicago Feeder Cattle Show, except on livestock sold for registered traders on the Chicago market:

For each carlot and trucklot entered and/or exhibited of:

Fat cattle	$1.76 per head, minimum $26.50.
Stocker and feeder cattle and calves	$0.53 per head, minimum $10.60.
Hogs	$0.55 per head, minimum $ 5.50.
Sheep	$0.20 per head, minimum $ 5.00.

In addition there shall be collected and paid to auctioneers for auctioning livestock in either of said shows or in the feeder cattle sales the following:

Carlot and trucklot entries:

Fat cattle	$0.33 per head, minimum $5.
Feeder cattle and calves	$0.25 per head, minimum $2.
Hogs	$0.20 per head, minimum $2.
Sheep	$0.08 per head, minimum $2.

Individual entries:

Each individual Open Class Steer	$1.50
Each junior Feeding Contest Steer	$1.00
Each individual hog	$ .50
Each individual sheep	$ .50

On feeder cattle and calves sold in the feeder cattle and calf auctions for registered traders on the Chicago market the charges in Section F shall apply, plus charges for auctioneering livestock provided in Section G.

(A carlot or trucklot entry is a lot of livestock sold as a group.)

(4) Amend Section I to provide as follows:

SECTION I

FEEDER CATTLE AND CALF AUCTION BUYING AND SERVICE CHARGES

No feeder livestock offered for sale at auction will be purchased or paid for by a market agency for a buyer, nor any other stockyard service rendered, unless arrangements satisfactory to the market agency to assure payment therefor have been made by the buyer.

When a market agency purchases feeder livestock at auction by direct bid for a buyer, the charge per consignment shall be:

Item No.		
I-1	Cattle (average weight over 400 lbs.)	$1.65 per head.
	Plus extra service charges provided in Section E. Maximum $54.85 for the first 24,400 pounds, plus 20 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
I-2	Calves (average weight 400 lbs. or under)	$0.83 per head.
	Plus extra service charges provided in Section E. Maximum $54.85 for the first 24,400 pounds, plus 20 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	

When feeder livestock purchased at auction by direct bid by a buyer is weighed to or through a market agency for the buyer, the charge for consignment shall be:

Item No.		
I-3	Cattle (average weight over 400 lbs.)	$1.30 per head.
	Plus extra service charges provided in Section E. Maximum $41.25 for the first 24,400 pounds, plus 16 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
I-4	Calves (average weight 400 lbs. or under)	$0.64 per head.
	Plus extra service charges provided in Section E. Maximum $41.25 for the first 24,400 pounds, plus 16 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	

When feeder livestock offered for sale at auction is neither purchased nor paid for by a market agency, the charge per consignment for any other stockyard service or services rendered by such market agency in connection with feeder livestock acquired by the buyer at auction shall be:

Item No.		
I-5	Cattle (average weight over 400 lbs.)	$0.90 per head.
	Plus extra service charges provided in Section E. Maximum $27.45 for the first 24,400 pounds, plus 11 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	
I-6	Calves (average weight 400 lbs. or under)	$0.48 per head.
	Plus extra service charges provided in Section E. Maximum $27.45 for the first 24,400 pounds, plus 11 cents for each additional 100 pounds or fraction thereof, plus extra service charges provided in Section E.	

When feeder livestock offered for sale at auction is neither purchased nor paid for by a market agency, nor any other stockyard service or services rendered by such market agency in connection with feeder livestock acquired by a buyer at auction, there shall be no charge.

The proposed modification will:

(1) Increase by 10 cents per head the charges for selling cattle or calves;

(2) Increase by $3.35 the maximum charge for selling a consignment of cattle or calves weighing 24,400 pounds or less, and increase by one cent the charge for selling each 100 pounds or fraction thereof in excess of the first 24,000 pounds of a consignment;

(3) Increase by 10 cents per head the charges for selling bulls;

(4) Increase by 10 cents per head the charges for selling tagged cattle;

(5) Increase by 5 cents per head the charges for selling hogs;

(6) Increase by $4.05 the maximum charge for selling a consignment of hogs weighing 18,000 pounds or less, and increase by 2 cents the charge for selling each 100 pounds or fraction thereof in excess of 18,000 pounds of a consignment;

(7) Increase by 5 cents per head the charge for selling a consignment of one head and one head only of boars;

(8) Increase by 10 cents per head the charges for selling consignments of more than one head of boars;

(9) Increase the per head charge for reselling for their account livestock purchased at the Chicago Union Stock Yards by registered dealers or registered market agencies, without having been removed from said market, as follows: (1) Ten cents on bulls 700 pounds or over; (2) 10 cents on other cattle; (3) 5 cents on calves; (4) 5 cents on boars; and (5) 5 cents on other hogs;

(10) Increase by 10 cents the service charge for each head in a carlot or trucklot of fat cattle entered and/or exhibited in the International Live Stock Exposition or in the Chicago Feeder Cattle Show, and increase by $1.50 the minimum service charge for each such carlot or trucklot;

(11) Increase by 3 cents the service charge for each head in a carlot or trucklot of stocker or feeder cattle or calves entered and/or exhibited in the International Live Stock Exposition or in the Chicago Feeder Cattle Show, and increase by 60 cents the minimum service charge for each such carlot or trucklot;

(12) Increase by 5 cents the service charge for each head in a carlot or trucklot of hogs entered and/or exhibited in the International Live Stock Exposition or in the Chicago Feeder Cattle Show, and increase by 50 cents the minimum service charge for each such carlot or trucklot;

(13) Increase by 10 cents per head the charge for purchasing feeder cattle at auction by direct bid for a buyer;

(14) Increase by 8 cents per head the charge for purchasing feeder calves at auction by direct bid for a buyer;

(15) Increase by $3.35 the maximum charge for the first 24,400 pounds of feeder cattle or calves purchased for a buyer at auction by direct bid, and increase by 1 cent the charge for each 100 pounds or fraction thereof of such cattle or calves in excess of 24,400 pounds;

(16) Increase by 7 cents per head the charge for weighing to or through a market agency feeder cattle which have been purchased by direct bid by a buyer, increase by $2.50 the maximum charge for weighing the first 24,400 pounds of a consignment of such cattle, and increase by 1 cent the charge for weighing each 100 pounds or fraction thereof in excess of 24,400 pounds of a consignment;

(17) Increase by 4 cents per head the charge for weighing to or through a market agency feeder calves which have been purchased by direct bid by a buyer, increase by $2.50 the maximum charge for weighing the first 24,400 pounds of a consignment of such calves, and increase by 1 cent the charge for weighing each 100 pounds or fraction thereof in excess of 24,400 pounds of a consignment;

(18) Increase by 5 cents per head the charge for any stockyard services rendered in connection with feeder cattle acquired by a buyer at auction but which have been neither purchased nor paid for by the market agency, increase by $1.70 the maximum charge for such stockyard services rendered in connection with the first 24,400 pounds of a consignment of such cattle, and increase by 1 cent the charge for such stockyard services rendered in connection with each 100 pounds or fraction thereof in excess of 24,400 pounds of a consignment;

(19) Increase by 3 cents per head the charge for any stockyard services rendered in connection with feeder calves acquired by a buyer at auction but which have been neither purchased nor paid for by the market agency, increase by $1.70 the maximum charge for such stockyard services rendered in connection with the first 24,400 pounds of a consignment of such calves, and increase by 1 cent the charge for such stockyard services rendered in connection with each 100 pounds or fraction thereof in excess of 24,400 pounds of a consignment.

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clark, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of December 1968.

GLENN G. BIERMAN,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 68-14700; Filed, Dec. 9, 1968; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

Notice of Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 3, 1968.

Notice of a Corps of Engineers, Department of the Army, application New Mexico 1582, for withdrawal and reservation of lands to protect the underground water resources needed by military installations, was published as F.R. Doc. No. 68-145, on page 158 of the issue for January 5, 1968. The applicant agency has canceled its application insofar as it affects the land described as W½NE¼ and E½E½SE¼, Sec. 16, T. 18 S., R. 10 E., New Mexico Principal Meridian, New Mexico.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2311, such lands, at 10 a.m. on December 31, 1968, will be relieved of the segregative effect of the above-mentioned application.

MICHAEL T. SOLAN,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 68-14734; Filed, Dec. 9, 1968; 8:45 a.m.]

[Oregon 018699]

OREGON

Order Providing for Opening of Public Lands

DECEMBER 3, 1968.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 33 S., R. 18 E.,
Sec. 7, SE¼SW¼, NE¼SE¼, and S½SE¼.

The areas described aggregate 160 acres.

2. The lands are located in Lake County. They are semiarid in character and are not suitable for farming.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., January 8, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Post Office Box 2965, Portland, Oreg. 97208.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 68-14687; Filed, Dec. 9, 1968; 8:46 a.m.]

Fish and Wildlife Service

[Docket No. A-480]

FRANK M. COLE

Notice of Loan Application

DECEMBER 3, 1968.

Frank M. Cole, Post Office Box 1373, Ketchikan, Alaska 99901, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 31.3-foot registered length wood vessel to engage in the fishery for salmon.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director, Bureau of Commercial Fisheries.

[F.R. Doc. 68-14708; Filed, Dec. 9, 1968; 8:48 a.m.]

National Park Service

[Order 3]

ADMINISTRATIVE OFFICER, GENERAL SUPPLY ASSISTANT, ET AL.

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

1. *Administrative Officer.* The Administrative Officer, New York City National Park Service Group, may execute, approve, and administer contracts not in excess of $25,000 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 the New York City National Park Service Group.

2. *General Supply Assistant.* The General Supply Assistant, New York City National Park Service Group, may issue purchase orders not in excess of $2,500 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 General Supply Assistant in behalf of any unit under the administration of the New

York City National Park Service Group.

3. *Revocation.* This order supersedes Order No. 2 issued October 10, 1966.

(National Park Service Order No. 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: November 21, 1968.

HENRY G. SCHMIDT,
Superintendent, New York City National Park Service Group.

[F.R. Doc. 68-14688; Filed, Dec. 9, 1968; 8:46 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR RENEWAL ASSISTANCE, DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR RENEWAL ASSISTANCE, REGIONAL COUNSEL, AND ASSOCIATE REGIONAL COUNSEL FOR GENERAL PROGRAM SERVICES, REGION II (PHILADELPHIA)

Redelegation of Authority To Execute Requisition Agreements Securing Preliminary Loan Notes

The redelegation of authority from the Regional Administrator, Region II (Philadelphia, Pa.), to the Assistant Regional Administrator for Renewal Assistance and the Deputy Assistant Regional Administrator for Renewal Assistance, Region II (Philadelphia, Pa.), effective May 15, 1968 (33 F.R. 7177, May 15, 1968), to execute Requisition Agreements securing Preliminary Loan Notes, is hereby amended under section A, by revising the initial paragraph to read:

SECTION A. *Authority redelegated with respect to Slum Clearance and Urban Renewal Program.*

The Assistant Regional Administrator for Renewal Assistance, the Deputy Assistant Regional Administrator for Renewal Assistance, the Regional Counsel, and the Associate Regional Counsel for General Program Services, Region II (Philadelphia, Pa.), each is hereby authorized to execute requisition agreements under section 102(c) of the Housing Act of 1949, as amended (42 U.S.C. 1452(c)), securing the payment of the principal of and interest on preliminary loan notes each of which provides that it shall not be valid until the paying agent has executed an agreement appear on the note to act as paying agent, and under which requisition agreement the United States among other things:

(Redelegation of authority by Assistant Secretary for Renewal and Housing Assistance effective as of May 15, 1968, 33 F.R. 7175, May 15, 1968)

Effective date: This redelegation of authority shall be effective as of October 1, 1968.

WARREN P. PHELAN,
Regional Administrator, Region II.

[F.R. Doc. 68-14769; Filed, Dec. 9, 1968; 8:50 a.m.]

ACTING REGIONAL ADMINISTRATOR ET AL. REGION V (FORT WORTH)

Designations

A. The officers appointed to the following listed positions in Region V (Fort Worth) are hereby designated to serve as Acting Regional Administrator, Region V, during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Assistant Regional Administrator for Program Coordination and Services.

B. The officers appointed to the positions in Region V (Fort Worth) listed under 1, 2, 3, 4, 5, 6, and 7 below are hereby designated to serve as the Acting Assistant Regional Administrator as specified below during the absence of the Assistant Regional Administrator for Housing Assistance; the Assistant Regional Administrator for Metropolitan Development; the Assistant Regional Administrator for Program Coordination and Services; the Assistant Regional Administrator for Renewal Assistance; the Assistant Regional Administrator for FHA; the Assistant Regional Administrator for Administration; and the Assistant Regional Administrator for Model Cities, respectively, with all of the powers, functions, and duties redelegated or assigned to the respective Assistant Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Assistant Regional Administrator unless all other officers whose titles precede his in the respective designations below are unable to act by reason of absence;

1. Acting Assistant Regional Administrator for Housing Assistance:
   a. Deputy Assistant Regional Administrator for Housing Assistance.
   b. Director, Production Division, Housing Assistance Office.
   c. Director, Technical Services Division, Housing Assistance Office.
   d. Director, Tenant and Operations Services Division, Housing Assistance Office.
2. Acting Assistant Regional Administrator for Metropolitan Development:
   a. Deputy Assistant Regional Administrator for Metropolitan Development.
   b. Chief, Finance Branch, Metropolitan Development.
   c. Director, Program Field Service Division, Metropolitan Development Office.
3. Acting Assistant Regional Administrator for Program Coordination and Services:
   a. Director, Economic and Market Analysis Branch, Program Coordination and Services Division.
   b. Director, Planning Branch, Program Coordination and Services Division.
   c. Director, Community Services Branch, Program Coordination and Services Division.
   d. Director, Relocation Branch, Program Coordination and Services Division.
4. Acting Assistant Regional Administrator for Renewal Assistance:
   a. Deputy Assistant Regional Administrator for Renewal Assistance.
   b. Director, Field Services Division, Renewal Assistance Office.
   c. Chief, Fiscal Management Branch, Renewal Assistance Office.
5. Acting Assistant Regional Administrator for FHA:
   a. Deputy Assistant Regional Administrator for FHA.
   b. Director, Low Income Housing and Rent Supplement Branch, Office of the Assistant Regional Administrator for FHA.
6. Acting Assistant Regional Administrator for Administration:
   a. Chief, Budget Branch, Division of Administration.
7. Acting Assistant Regional Administrator for Model Cities:
   a. Federal Agency Liaison Specialist, Office of the Assistant Regional Administrator for Model Cities.
   b. Citizen Participation Adviser, Office of the Assistant Regional Administrator for Model Cities.
   c. Manpower and Economic Development Adviser, Office of the Assistant Regional Administrator for Model Cities.
   d. Social Services Adviser, Office of the Assistant Regional Administrator for Model Cities.

These designations supersede the designations effective June 15, 1967 (32 F.R. 8626-8627, June 15, 1967).

(Delegation effective May 4, 1962, 27 F.R. 4319, May 4, 1962; Dept. Interim Order II, 31 F.R. 815, Jan. 21, 1966)

Effective date. These designations shall be effective as of December 10, 1968.

W. W. COLLINS,
Regional Administrator, Region V (Fort Worth).

[F.R. Doc. 68-14770; Filed, Dec. 9, 1968; 8:50 a.m.]

ACTING REGIONAL ADMINISTRATOR, REGION VI (SAN FRANCISCO)

Designation

The officers appointed to the following listed positions in Region VI (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region VI (San Francisco), during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator, *Provided,* That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Assistant Regional Administrator for Program Coordination and Services.
4. Assistant Regional Administrator for Administration.

This designation supersedes the designation effective January 25, 1967 (32 F.R.

3406, Mar. 1, 1967) of the Acting Regional Administrator, Region VI (San Francisco).

Effective as of the 21st day of October 1968.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 68-14771; Filed, Dec. 9, 1968; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

GRACE LINE, INC.

Notice of Application

Notice is hereby given that Grace Line, Inc., has filed application dated November 26, 1968, for a waiver under section 804 of the Merchant Marine Act, 1936, as amended, to permit its affiliate, Grace y Cia. (Peru), S.A., to act as husbanding agent at Callao, Peru, commencing about January 15, 1969, for either the Danish-flag vessel, the "Mv Flyndeborg" or the "Mv Fredericksberg," to be on charter to the Weyerhaeuser Line for two round voyages with an option for two additional voyages from U.S. Pacific ports to Peru. Southbound cargoes will be restricted to lumber to Callao, Peru, and northbound cargoes will consist of either fishmeal and/or bulk ores and concentrates to U.S. Pacific Coast ports.

Any person, firm, or corporation having an interest in this application, who desires to offer views and comments thereon for consideration by the Maritime Administration, should submit same in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C., by the close of business on December 16, 1968. The Maritime Administration will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

By order of the Acting Maritime Administrator.

Dated: December 6, 1968.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68-14773; Filed, Dec. 9, 1968; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-208]

TRUSTEES OF COLUMBIA UNIVERSITY IN CITY OF NEW YORK

Notice of Extension of Completion Date

The Commission has issued an order extending to June 30, 1969, the latest completion date specified in Construction Permit No. CPRR-78 for construction of the TRIGA Mark II type nuclear reactor being constructed on the University's campus at Morningside Heights, New York, N.Y.

Copies of the order and of the application dated November 7, 1968, by the Trustees of Columbia University in the City of New York are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 27th day of November 1968.

For the Atomic Energy Commission.

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

[F.R. Doc. 68-14670; Filed, Dec. 9, 1968; 8:45 a.m.]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Order Extending License Expiration Date

By application, dated August 8, 1968, Connecticut Yankee Atomic Power Co. requested an extension of the expiration date of Facility License No. DPR-14. The license authorizes the applicant to possess and operate the Haddam Neck Plant located in the town of Haddam, Middlesex County, Conn.

Good cause having been shown for extension of said date pursuant to § 50.57 (d) of 10 CFR 50 of the Commission's regulations, it is hereby ordered that the expiration date of Provisional Operating License No. DPR-14 is extended to December 30, 1969.

Date of issuance: November 29, 1968.

For the Atomic Energy Commission.

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

[F.R. Doc. 68-14671; Filed, Dec. 9, 1968; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20374]

AIR ATLANTIC, LTD.

Notice of Further Prehearing Conference

Notice is hereby given that a further prehearing conference in the above-entitled matter is assigned to be held on January 6, 1969, at 10 a.m., e.s.t. in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., December 2, 1968.

[SEAL] E. ROBERT SEAVER,
Hearing Examiner.

[F.R. Doc. 68-14692; Filed, Dec. 9, 1968; 8:46 a.m.]

[Docket No. 20211]

KUEHNE AND NAGEL AIR FREIGHT, INC.

Notice of Hearing

Kuehne and Nagel, d.b.a. Kuehne and Nagel Air Freight, Inc.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on December 23, 1968, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., December 3, 1968.

[SEAL] E. ROBERT SEAVER,
Hearing Examiner.

[F.R. Doc. 68-14693; Filed, Dec. 9, 1968; 8:46 a.m.]

[Docket No. 20051; Order 68-12-11]

AIRLINE SCHEDULING COMMITTEE

Order Approving Agreements Regarding Establishment

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of December 1968.

Agreements filed pursuant to section 412(a) of the Federal Aviation Act, as amended, for the establishment of Airline Scheduling Committees. Docket 20051, Agreements CAB, 20560, 20561, and 20562.

By Order 68-10-45, October 10, 1968, the Board afforded interested persons an opportunity to file comments with respect to the above agreements. These agreements establish Scheduling Committees to facilitate adjustment of scheduled domestic and foreign air carrier transportation operations into and out of (1) John F. Kennedy International Airport, La Guardia Airport and Newark Airport; (2) Washington National Airport; and (3) O'Hare International Airport.[1]

The agreements were entered into in comtemplation of the promulgation by the Federal Aviation Administration (FAA) of regulations placing restrictions on the use of the airports in question. On December 3, 1968, the FAA issued its regulation concerning the use of high density airports.[2] We need not elaborate upon the provisions of the regulation except to note that it establishes ceilings on the total movements per hour at the affected airports and allocates numbers of permissible movements by classes of airport users but does not allocate amongst members of a class the number of movements each carrier may operate.

[1] The New York agreement (CAB Agreement 20560) was appended to Order 68-10-45, together with a transmittal letter from Air Transport Association (ATA) which explains the agreements.

[2] Amendment 93-13 of the Federal Air Regulations (33 F.R. 17896).

The purpose of the subject agreements is to provide machinery for the allocation of the total permissible aircraft movements among the individual carriers. All agreements, by their terms, are subject to prior Board approval. The agreements provide that each signatory will endeavor to arrange its schedules into and out of the respective airports so that the total scheduled operations of all parties will not exceed mutually acceptable limitations. However, the decision of whether or not a schedule should be shifted or curtailed is to be made voluntarily by the individual party whose schedule is involved. A Scheduling Committee for each city, composed of one representative of each airline user, will provide a forum in which schedules may be examined and relevant aspects of the scheduling process may be explored.

Comments were received from the Departments of Justice and Transportation, Port of New York Authority (PNYA), Universal Airlines, Inc. (Universal) and National Air Carrier Association (NACA). Thereafter, NACA also filed a motion for leave to file supplemental comments, which in the absence of objection we shall grant.

The Department of Justice states that while the FAA itself might undertake the allocation of schedules among carriers at congested airports, under the present circumstances it has no objection in principle to properly limited agreements among affected air carriers to meet FAA air traffic congestion regulations. However, such agreements should not be approved unless they are amended to provide substantially as follows: (1) The agreements should in terms clearly relate directly to FAA regulatory requirements, and be designed to limit total scheduled operations at particular airports to the extent necessary to meet FAA regulations, rather than to produce "mutually acceptable limitations;" (2) FAA and CAB should be authorized to send observers to scheduling committee meetings; (3) individual scheduling agreements should only be effective upon Board approval with interested parties given the opportunity to comment on the propriety of the particular schedule allocation agreements; (4) discussions leading to agreements should be limited to reducing the number of flights currently scheduled, shall not include such additional competitive matters as fares or profits, and exclude broad authority "to explore relevant aspects of the scheduling process upon which adjustments may be made;" (5) the life of the scheduling committee should be limited to the time necessary to make an initial reduction in flights, and all subsequent scheduling agreements should be submitted for Board approval; (6) separate agreements should be required for each affected airport and discussions or agreements to include more than one city or airport not covered by the FAA regulations should be prohibited; (7) scheduling should be a matter of voluntary agreement by individual airlines and should not be imposed by a scheduling committee; and (8) any air carrier providing scheduled service at the airport or airports covered by an agreement should be eligible to participate in the agreement.

The Department of Transportation states that there are two principal ways to determine allocations among scheduled air carriers: (1) The Department of Transportation could take the next step, after establishing the initial allocation, of apportioning arrival and departure spaces among the carriers, or alternatively (2) the apportionment among the carriers could be effected by the voluntary agreement of those carriers subject to Board approval. The latter approach is preferred subject to the following conditions: (1) The agreements should be tied more specifically to governmental regulation to cover any final rule issued by FAA so that total scheduled operations of all parties will not exceed "limitations imposed by governmental regulation," rather than "mutually acceptable limitations"; (2) the scheduling committee to the extent possible shall develop general criteria under which each carrier will independently determine its own scheduling pattern so as to facilitate necessary changes in flight allocations and the evaluation of those changes; (3) the area of authorized discussion by the scheduling committee shall not include competitive nonscheduling matters such as fares, profits, or customer services; (4) the Board, DOT, other interested agencies, and airport operators with a special interest shall be authorized to attend the scheduling committee meetings; (5) periodic reporting should be required which would set forth the results of the committees' activities and should be served on all interested parties; (6) interested parties should be afforded an opportunity to file comments with the Board in respect to such reports; and (7) the agreements should be effective according to their terms through March 31, 1970, and extensions should be subject to Board approval. The Department also recommends that the Board express its intention to initiate a formal review of the agreements 90 days prior to expiration, in the event the parties seek renewal.

PNYA supports the New York agreement subject to the following conditions: (1) The Board should retain continuing jurisdiction over the New York agreement; and (2) the Board, DOT/FAA, and PNYA should be served with notice and reports of all meetings, and be authorized to have representatives attend such meetings. PNYA suggests that the Board may wish to provide for the inclusion in the scheduling committees of supplemental and foreign charter airlines, if such carriers are included in the class with scheduled air carriers under a final FAA regulation. PNYA further states that absent an FAA rule, the establishment of a scheduling committee is desirable with the objective that total scheduled operations of all parties will not exceed mutually acceptable limitations.

NACA's and Universal's arguments were directed primarily to the exclusion under the FAA's proposed rule of the supplementals from the scheduled carrier category. Since the final rule places supplmental air carriers in the same user class as the scheduled carriers, further discussions of these comments is not required.

Two broad questions are presented to us. The first question is the basic one of whether or not the Board should approve the concept of collective carrier action to resolve scheduling problems at the high density airports. Secondly, there is the issue of the conditions which we should attach to our approval.

It is unnecessary to comment at any length upon the air traffic congestion experienced at the five airports in question or the inconvenience and in many instances hardships resulting from such congestion. The recent events of this summer are a matter of public knowledge. An emergency situation of sizable magnitude exists and, without appropriate action by all concerned agencies and segments of the aviation community, a repetition of last summer's experience is inevitable.

The rules adopted by the FAA are designed to ration what has become an increasingly scarce resource—airport capacity. No one, least of all the Board, favors the imposition of artificial restraints upon the continued growth and development of the air transportation system. However, recent experience conclusively indicates that unless restraints are imposed, conditions at the designated airports will further deteriorate, resulting in increased delays for the traveling public and mounting operating expenses for the carriers.

The Board recognizes that approval of the agreements would constitute a departure from our customary policy with respect to so sensitive an area as scheduling. We deem it significant that no person or agency objects to the creation of schedule committees per se. Instead, the comments are directed to the type of conditions which should be imposed. Furthermore, the agreements appear to be a necessary step in the implementation of the FAA regulations. Although the FAA has established ceilings on the total movements at the airports in question and allocated portions of the total to classes of airport users, it has not assigned to users within a class the number of operations each such user may conduct. The FAA anticipated that this task will be accomplished by voluntary agreements among the members of each class.[3] Considering the complexities which would be involved in any attempt by the Government to allocate scheduled assignments among the various individual airline users, we believe that allocation of operations among the various individual carriers serving the high density airports should be left preferably to resolution by a voluntary cooperative effort by the carriers. Accordingly, we have determined that the agreements should be approved.

We turn now to the conditions to be imposed. The Board has carefully evaluated the suggestions contained in the

[3] FAA Docket No. 9113; Notice 68-20.

comments filed in response to Order 68–10–45. The conditions we shall attach are designed to accomplish three objectives: (1) To limit the scope of the schedule committees' activities in such a manner as to preclude any unnecessary or anticompetitive activities by the carriers acting through the committees; (2) to permit the Board to keep proper surveillance over the committees' activities; and (3) to protect the rights of all interested persons. At the same time, we have not imposed conditions which either would be unduly burdensome or whose purpose can be accomplished with equal effectiveness through less stringent means.

Turning first to the scope of the schedule committees' functions, we agree that in some respects the agreements are vague. The agreements indicate that they are designed to produce "mutually acceptable limitations" on operations at the airports in question (paragraph 3). It may be that the term was employed by the carriers as a euphemism for the FAA regulations. In any event we wish to make it clear that whatever adjustments or reductions are made in operations such action will be for the purpose of complying with the FAA's requirements, and we shall so condition our approval.

Similarly there is ambiguity in the provision appearing in paragraph 5 to the effect that the committee may explore relevant aspects of the scheduling process. If what is intended is the discussion of such matters as aircraft utilization and positioning, crew requirements, maintenance and overhaul cycles and other similar considerations, such discussions appear appropriate. On the other hand, the paragraph's broad terminology may be read as including the discussion of city pair markets or other competitive factors. We wish to emphasize that our approval does not extend to such matters. However, the carriers have indicated that such was not their intention and in order to remove any doubts on this score, a condition will be imposed prohibiting such discussions.

We also find that the public interest requires a means by which the Board and other concerned persons can be adequately apprised of what actions are being taken by the carriers and to take remedial action if the need arises. To accomplish these objectives, we shall impose the following conditions: Board representatives and those of other designated persons shall have the right to attend all schedule committee meetings; all information concerning proposed schedules submitted by the carriers to the schedule committee shall be compiled by the committee and filed with the Board;[4] a full and complete report of each schedule committee meeting and carrier schedule adjustments will be filed with the Board; and the Board will reserve continuing jurisdiction over the agreements approved herein.

The Board has decided to extend its approval of the agreements to all action taken by the carriers as a result of their participation in the schedule committee meetings and which are consistent with the approval granted herein. We are fully cognizant of and have carefully evaluated the suggestion that individual schedule agreements reached by the carriers be submitted to and require Board approval prior to their implementation. However, we have concluded that such a condition would be neither necessary nor desirable. To begin with, a requirement that schedule changes first be approved by the Board would not only impose severe administrative burdens on all concerned, but would carry with it a risk of undue delay in the making of necessary schedule adjustments. Moreover, the conditions which we are imposing, by minimizing the possibility of anticompetitive activities and providing for surveillance of the operations of the schedule committees, provide reasonable assurance that the implementation of the agreements will not be adverse to the public interest. Finally, the Board's reservation of jurisdiction will permit us to take such further action in the future as circumstances may warrant.

We have also decided to approve the agreements for their full term, that is, through March 31, 1970, a period of 16 months. In our judgment no useful purpose would be served by limiting the life of the committees to the period of time required to accomplish the initial schedule adjustments required to comply with the FAA regulations. At issue are several of the busiest airports in the country. As traffic continues to mount, additional schedule changes may be required. Furthermore, seasonal variations in patterns of services probably will necessitate action by the schedule committees. This seasonal variation is exemplified at Kennedy International Airport. Late spring and summer is the peak period for North Atlantic scheduled and charter service while such operations are reduced sharply during the fall and winter. On the other hand, the fall and winter is the peak period for service to Florida and the Caribbean. Of necessity these cyclical variations are reflected in each carrier's volume of service and its use of the airports in question.

Accordingly, it is ordered:

1. That Agreements CAB 20560, 20561, and 20562 be and they hereby are approved, subject to the following conditions:

(a) This approval also embraces (1) any agreement for the adjustment of schedules which may be made among the signatories stemming solely from committee procedures in compliance with this order, and (2) the participation of all subsequent signatories to the agreements approved herein.

(b) Eligibility to participate in the agreements and activities of a schedule committee established for a particular point shall extend to all certificated air carriers and foreign air carriers authorized to provide scheduled service at such point, all supplemental air carriers, and all foreign air carriers holding permits authorizing charter foreign air transportation as defined in § 214.2(a) of the Board's economic regulations.

(c) The respective schedule committees will advise the Board when the participation requirements which condition the effectiveness of the respective agreements have been fulfilled, and whenever any changes have been made in the signatory parties together with the then current total percentage of participation.

(d) A notice of any meeting of a schedule committee shall be served upon all carriers described in subparagraph (b) above, and the Department of Transportation, the Port of New York Authority, the Department of Aviation of the City of Chicago and the Federal Aviation Administration and filed with the Board at least 7 calendar days prior to such meeting.

(e) Representatives of the CAB, Department of Transportation, Federal Aviation Administration, all carriers described in subparagraph (b) above, and all airport operators at any such city and representatives of such city shall be permitted to attend the meetings.

(f) The purpose of the schedule committees shall be to facilitate the voluntary adjustments in carrier schedules so that the total operations of all parties will not exceed limitations imposed by regulations adopted by the FAA.

(g) The signatories shall not discuss schedules in particular city pairs or submit information concerning their proposed service or schedules in such a fashion as to indicate the city pairs involved.

(h) Approval of the agreement shall not be construed as authorizing discussions of rates, fares, charges, or inflight and other services in connection with air transportation.

(i) The schedule committee shall file with the Board a report, in triplicate, containing the information submitted to it by the carriers in advance of a schedule committee meeting showing the respective carriers' proposed schedules. Such report shall be filed with the Board at the same time that the schedule committee transmits the report to the carriers.

(j) The schedule committee shall file with the Board a report of each meeting held pursuant to each agreement including, inter alia, the date, place, attendance, and summary of discussions and information as to adjustments and/or reductions of schedules made by participants in the agreement. Copies of such report shall be served on the persons designated in subparagraph (d) above. The report shall be filed with the Board, in triplicate, within 14 days of the close of a schedule committee meeting.

(k) Each carrier participating in a schedule committee meeting shall advise the schedule committee of the changes made in its schedules in order to comply with the FAA regulations. Within 14 days after the filing of the report required in subparagraph (j) above,

[4] Based upon information filed by the carriers in this docket, we understand that the carriers will submit to the schedule committee in advance of a meeting, information concerning their proposed schedules, and that such information will be collated by the committee and distributed to the carriers.

and every 2 weeks thereafter, the schedule committee shall file a report in triplicate with the Board, in a form approved by the Director, Bureau of Operating Rights, setting forth the schedule changes made by the carriers. The report will be submitted in a format which readily discloses the total movements by hour of the day.

2. The approval granted herein shall expire at 12:01 a.m., April 1, 1970, and any request to continue such approval beyond March 31, 1970, shall be filed at least 90 days prior to such expiration date;

3. The Board shall retain jurisdiction over the agreements to take such further action at any time without hearing as it may deem appropriate;

4. NACA's motion for leave to file supplemental comments be and it hereby is granted;

5. Except, to the extent granted herein, all motions and requests be and hereby are denied; and

6. A copy of this order shall be served upon all carriers described in subparagraph (b) above, The Departments of Transportation and Justice, the Port of New York Authority, the Department of Aviation of the City of Chicago, and the Federal Aviation Administration.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-14712; Filed, Dec. 9, 1968; 8:48 a.m.]

[Docket No. 20316; Order 68-12-18]

JET AIR FREIGHT ET AL.

Order Granting Tentative Approval

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of December 1968.

Application of Jet Air Freight, Copeland Shipping, Inc., Gerow F. Miles, et al. for approval of control relationships pursuant to section 408 of the Federal Aviation Act of 1958, as amended.

By application filed October 3, 1968, Jet Air Freight (Jet), Copeland Shipping, Inc. (Copeland), CAS Trucking Corp. (CAS), and Copeland Importing Services, Inc. (Importing), request approval without a hearing, pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), of the acquisition by Jet of all the outstanding capital stock of Copeland, CAS, and Importing. Jet is a corporation possessing both domestic and international air freight forwarding authority.[1] Copeland is an international air freight forwarder. CAS is a trucking company rendering pickup and delivery services in the New York area for customers of Copeland and its own customers in conjunction with air and surface freight. Importing is a corporation engaged in custom house and brokerage services.

The proposed acquisitions are to be accomplished pursuant to a Plan of Reorganization and Agreement (agreement), dated August 28, 1968, between Jet and Gerow F. Miles, Sidney Kreps, Rhoda Kreps, Nathan Cohen, Martin Loughitano, and Lawrence Rein. Under such agreement Jet will exchange a portion of its own stock for the outstanding common stock of Copeland, CAS, and Importing, all of which are owned by the aforementioned individuals.

All the present officers and directors, except one, of the acquired companies will remain in their present positions.[2] In addition, there will be three new directors of Copeland: Julius Wagner, president and chairman of the board of Jet; Gertrude Moldave, secretary-treasurer and director of Jet; and Gary L. Zimmerman, assistant secretary-treasurer and general counsel of Jet. Finally, Mr. Miles and Mr. Kreps will both become directors of Jet, and Mr. Kreps will also become executive vice president of Jet.[3]

On October 11, 1968, an amendment to the application was filed seeking approval, without hearing, under section 408 of the Act, of the previous acquisition by Mr. Gerow F. Miles of 50 percent of the outstanding stock of CAS while Mr. Miles controlled Copeland. It is alleged that Mr. Miles was unaware, until October 4, 1968, that his acquisition of the CAS stock was subject to the jurisdiction of the Board and might require the Board's approval.[4]

Applicants request that Copeland be permitted to retain its operating authorization until December 31, 1969, so that an orderly transfer of its customers to Jet may be accomplished and so that Jet may obtain the full benefit of Copeland's identity in the international field.[5] Thereafter, Copeland's air freight forwarding activities would be handled by Jet.[6]

The application recites that as a result of Jet's acquisition of Copeland, not only would Jet's customers benefit from Copeland's broad international coverage, but Copeland's customers would similarly receive the benefits of Jet's extensive domestic coverage. Moreover, it is contended that the acquisition would enhance the potential profitability beyond that which both forwarders could expect separately. In turn, the increased profitability of the merged forwarder would enable it to better meet the public's needs in the future. Finally, it is alleged that such financial strengthening of Jet and Copeland would occur without adversely affecting other air freight forwarders.

In calendar year 1967 Jet obtained $8,357,682 in revenue from its air freight forwarding operations. Of this amount $5,226,466 was in domestic operations and $3,131,216 in international operations. Copeland's forwarder authority is limited to international operations and in 1967 its revenues from such operations amounted to $299,396.[7]

No comments or requests for a hearing have been received.

Upon consideration of the foregoing, the Board concludes that the transactions described in the application, as amended, involve (1) the acquisition by an air carrier (Jet) of control of another air carrier (Copeland) and a common carrier (CAS), and (2) the acquisition by a person controlling an air carrier (Gerow F. Miles) of control of a common carrier (CAS), all within the meaning of section 408 of the Act. However, the Board has concluded tentatively that such acquisitions do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest is currently requesting a hearing and it is concluded that a hearing is not required in the public interest.

It is also concluded that interlocking relationships within the meaning of section 409 of the Act have and will exist. However, upon approval of the acquisitions, such relationships would come within the scope of the exemption from section 409 afforded by § 287.2 of the Board's economic regulations.

The Board has tentatively decided to approve Jet's acquisition of Copeland and CAS subject to certain conditions. Based upon the record and information on file with the Board,[8] it appears that the acquisition will not result in eliminating any measurable competition between Jet and Copeland. Judged on the basis of each forwarder's principal markets, it appears that Jet and Copeland are noncompetitive. In 1967 Jet's top 10 international markets were all between Los Angeles and various cities in Europe and Asia. In contrast, Copeland's principal international operations for 1967 were all between New York and various cities in Europe and Asia.

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[1] Jet has four subsidiary companies: California Fabricators, Inc., and Container Fabricators, Inc., both wholly owned by Jet and engaged in manufacturing containers and packaging materials; Marine Information Systems, 75 percent owned by Jet and engaged in data processing services; and Coast Freight Distribution Agents, Inc., which, when stock is issued, will be 85 percent owned by Jet, and which acts as agent for various consignors and consignees for freight shipments inbound to California for the purpose of effecting distribution of such shipments.

[2] Messrs. Miles and Kreps will enter into formal employment agreements with Copeland for 5-year terms as president and executive vice president, respectively.

[3] The application recites that to the extent that the directorships involve interlocking relationships with an indirect air carrier, a company controlling and a company under common control with same, such interlocking relationships are exempt from section 409 of the Act pursuant to § 287.2(f) of the Board's economic regulations.

[4] It has been concluded that exceptional circumstances exist within the meaning of the Sherman Doctrine, and that there is no impediment to the processing of the amendment on its merits.

[5] Orders E-12477, May 8, 1958, and E-26863, June 3, 1968.

[6] See amendment to application, dated November 5, 1968, and filed with the Board on November 12, 1968.

[7] Copeland's total revenues in 1967 were approximately $10,900,000. The major portion of Copeland's revenues in 1967, $5,866,000, were earned in its capacity as an IATA cargo agent.

[8] CAB Forms 244, 1967.

Nor should the acquisition result in Jet increasing its relative competitive position in international air freight forwarding to such a degree that the acquisition could tend to restrain competition. Jet ranked fifth among international air freight forwarders in 1967 in terms of revenue while Copeland ranked 26th. Jet's percentage of the total international air freight forwarding revenues in 1967 amounted to only 4.30 percent. Clearly, the addition of Copeland's 1967 revenue of slightly under $300,000 would not have an appreciable effect upon Jet's ranking among international forwarders or its relative share of total industry revenues.

The acquisition may assist Jet in expanding its operations into markets and areas where it does not presently have an established market identity. Additionally, Copeland's overall activities which appear to be profitable may add financial strength to Jet and thereby enable Jet to expand its service to the public.

Approval of the control relationships, subject to the conditions set forth below,[9] would not be inconsistent with the public interest. In addition to the aforementioned conditions, in its final order the Board will reserve jurisdiction over the relationships.

In view of the foregoing, the Board tentatively concludes that it should approve without hearing under the third proviso of section 408(b) of the Act the acquisition by Jet of control of Copeland and CAS.[10] Jet's acquisition of CAS could provide for the continuation of required cartage services in the New York area.

It is also tentatively concluded that the previous acquisition of CAS by Gerow F. Miles should be approved under section 408(b) of the Act. The control relationships between Mr. Miles, Copeland, and CAS are similar to others which have been approved by the Board[11] to the extent they involve the common control of an air freight forwarder and a local trucking service. Moreover, such relationships do not present any new substantive issues.

In accordance with section 408(b) of the Act, this order, constituting notice of the Board's tentative findings, will be published in the FEDERAL REGISTER and interested persons will be afforded an opportunity to file comments or request a hearing on the Board's tentative decision.

Accordingly, it is ordered:

1. That interested persons are hereby afforded a period of ten (10) days from the date of this order within which to file comments or request a hearing with respect to the Board's proposed action on the amended application in Docket 20316;[12] and

2. That the Attorney General of the United States be furnished a copy of this order within 1 day of publication.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-14713; Filed, Dec. 9, 1968; 8:48 a.m.]

[9] The following conditions will appear in the Board's final order approving the instant transactions:

1. That the approval granted herein shall terminate on Dec. 31, 1969, unless by that date Copeland submits for cancellation its international air freight forwarder operating authorization;

2. That during the period of effectiveness of Copeland's international air freight forwarder operating authorization, Jet and Copeland shall not publish different rates, charges, or other tariff provisions respecting air transportation, or services in connection therewith, between points which both companies offer service; and

3. That each company shall maintain separate accounts and records; and that any required reports filed with the Board shall be submitted individually and shall not reflect any consolidation of financial or statistical data.

By amendment filed on Nov. 12, 1968, applicants state that Jet will amend its tariff to eliminate any differences between such tariff and Copeland's tariff for service originating in New York.

[10] As Importing is not considered to be an air carrier, common carrier, or a person engaged in a phase of aeronautics within the meaning of section 408 of the Act, applicants' request for approval of Jet's acquisition of Importing will be dismissed in the final order.

[11] See, for example, Mark IV Air Freight, Inc., et al., Docket 16233, Order E-22451, July 19, 1965.

[12] Comments shall conform to the requirements of the Board's rules of practice for filing documents. Further, since an opportunity to file comments is provided for, petitions for reconsideration of this order will not be entertained.

[Docket No. 20384]

AEROTRANSPORTES ENTRE RIOS S.R.L.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on December 13, 1968, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., December 4, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-14714; Filed, Dec. 9, 1968; 8:48 a.m.]

[Docket No. 20462]

SEAGREEN AIR TRANSPORT, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on December 18, 1968, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

Dated at Washington, D.C., December 5, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-14715; Filed, Dec. 9, 1968; 8:48 a.m.]

CIVIL SERVICE COMMISSION

GAO MANAGEMENT AUDITOR, WORLDWIDE

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum rates and rate ranges as follows:

GS-343 GAO MANAGEMENT AUDITOR

Geographic coverage: Worldwide.
Effective date: First day of the first pay period beginning on or after December 15, 1968.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-7	$7,913	$8,146	$8,379	$8,612	$8,845	$9,078	$9,311	$9,544	$9,777	$10,010
GS-9	9,026	9,308	9,590	9,872	10,154	10,436	10,718	11,000	11,282	11,564

[1] Corresponding statutory rates: GS-7—fifth; GS-9—third.

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty, under 5 U.S.C. 5723, of new appointees to positions cited.

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

[F.R. Doc. 68-14716; Filed, Dec. 9, 1968; 8:48 a.m.]

OCCUPATIONAL THERAPIST AND PHYSICAL THERAPIST

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established the following special minimum salary rates and rate ranges:

GS-631 Occupational Therapist
GS-633 Physical Therapist

Geographic coverage: Washington, D.C. Standard Metropolitan Statistical Area.
Effective date: First day of the first pay period beginning on or after December 1, 1968.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-6	$7,166	$7,377	$7,588	$7,799	$8,010	$8,221	$8,433	$8,645	$8,857	$9,069
GS-7	7,680	7,913	8,146	8,379	8,612	8,845	9,078	9,311	9,544	9,777
GS-8	8,213	8,470	8,727	8,984	9,241	9,498	9,755	10,012	10,269	10,526
GS-9	8,744	9,026	9,308	9,590	9,872	10,154	10,436	10,718	11,000	11,282
GS-10	9,607	9,917	10,227	10,537	10,847	11,157	11,467	11,777	12,087	12,397
GS-11	10,543	10,883	11,223	11,563	11,903	12,243	12,583	12,923	13,263	13,603

[1] Corresponding statutory rates: GS-6—fifth; GS-7—fourth; GS-8—third; GS-9—second; GS-10—second; GS-11—second.

All new employees in the specified occupational levels will be hired at the new minimum rates.

As of the effective date, the agency will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at a statutory rate shall receive basic compensation at the corresponding numbered rate authorized on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

All outstanding certificates for positions for which rates are changed are hereby amended to require that any appointment from them which will become effective on or after the effective date indicated herein must be made at the new minimum rates. Agencies possessing current certificate must also notify applicants on a certificate of the new rates and the effective date. If a declination at the old rate has been received, a new inquiry of availability must be sent to determine the applicant's availability for the higher salary.

United States Civil Service Commission,
[SEAL] James C. Spry,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-14717; Filed, Dec. 9, 1968; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18385, 18386; FCC 68-1144]

HARRY D. STEPHENSON, ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Harry D. Stephenson and Robert E. Stephenson, Lexington, N.C., Docket No. 18385, File No. BP-17021, Requests: 1140 kc., 1 kw., DA-Day; China Grove Broadcasting Co., China Grove, N.C., Docket No. 18386, File No. BP-17686, Requests: 1140 kc., 500 w., Day, for construction permits.

1. The Commission has before it for consideration the above-captioned applications which are mutually exclusive by virtue of interlinking prohibited overlap of contours as defined by § 73.37 of the Commission's rules.

2. Also before the Commission are: (a) A petition for reconsideration and return of the application of China Grove Broadcasting Co. (hereinafter, China Grove), filed by Foy T. Hinson, licensee of Stations WRKB and WRKB-FM, Kannapolis, N.C.; (b) China Grove's reply; (c) Hinson's response to the reply; (d) Hinson's subsequently filed petition to deny the China Grove application; and (e) pleadings in opposition and reply thereto.

3. Petitioner Hinson bases his claim of standing as a party in interest on the allegation that the proposed China Grove station would be located within the service area of Stations WRKB and WRKB-FM and would compete with them for advertising revenue. The Commission finds that petitioner has standing as a party in interest within the purview of section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 9 RR 2008 (1940).

4. The China Grove application was tendered for filing on March 30, 1967, accompanied by a request for waiver of § 1.569 of the Commission's rules. The proposal involves a technical violation of § 1.569(b)(2)(i) since the proposed site is located outside a 500-mile extension of the 0.5 mv/m-50 percent nighttime contour of Class I-A Station KSL, Salt Lake City, Utah, on 1160 kilocycles (a frozen channel) and, therefore, is in an area where a Class II-A facility might be allocated if 1160 kilocycles should be duplicated. Since the proposed frequency is 20 kc. removed from 1160 kilocycles, the problem which might be involved with a new Class II-A assignment in the area would be overlap of 2 and 25 mv/m contours.

5. On May 3, 1967, the Commission waived § 1.569(b)(2)(i) and accepted the China Grove application for filing. Reliance was placed on the applicant's demonstration that the existing operations of Stations WTYC, Rock Hill, S.C., and WBAG, Burlington-Graham, N.C., both operating on 1150 kilocycles, 1 kw., Day, already precluded the establishment of any Class II-A station in the area of the instant proposal. Applicant contended that any Class II-A proposal close enough to involve 2 and 25 mv/m contour overlap with the China Grove proposal would also involve adjacent channel overlap of 0.5 mv/m contours with the aforementioned stations. It was further stated that, since any Class II-A station established in the area would have to afford protection to KSL during nighttime hours, a directional antenna system would be required. This system would require the signal to be suppressed toward the west and radiate the major lobe toward the east or southeast. Therefore, any such station would have its major lobe within an area which presently receives primary nighttime service from Class I-B Station WBT, Charlotte, N.C., operating with 50 kw. Thus, any area which might be precluded by the proposed operation would not be usable for a transmitter site by an assumed Class II-A operation, because it would be impossible to meet the requisite 25 percent "white area" nighttime.

6. In his petition for reconsideration and return of application filed June 2, 1967, Hinson contends that the Commission erred in reaching the conclusion that the proposed operation of China Grove will not materially prejudice future consideration of adjacent Class I-A channels. The engineering statement submitted in support of the Hinson petition assumes 250 watts power for the hypothetical Class II-A station to show the areas precluded by the existing operation of Stations WBAG, Burlington-Graham, N.C., and WTYC, Rock Hill, S.C. On the other hand, it assumes a Class II-A operation of 50,000 watts to show the area that would be precluded by the instant China Grove proposal. The Commission agrees with the applicant's reply statement that it is fallacious to assume the lowest power of 250 watts to depict the area precluded by the existing operation of Stations WBAG and WTYC and then to assume the highest power of 50,000 watts to show the area precluded by the applicant's proposal. A further pleading filed by Hinson on July 1, 1967, likewise does not persuade us to alter our previous finding that the China Grove proposal would not preclude the assignment of a new Class II-A facility. Accordingly, the petition for reconsideration and return of the China Grove application will be denied.

7. Pursuant to the Commission's *Policy Statement on section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 FCC 2d 190, 6 RR 2d 1901 (1965)[1]

[1] Therein, the Commission called for an examination to determine whether an applicant's proposed 5 mv/m daytime contour would penetrate the geographic boundaries of any community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community. If such a condition exists, a rebuttable presumption arises that the applicant realistically proposes to serve the larger community.

Hinson requests inclusion of an issue to determine whether China Grove's proposal will realistically provide a local transmission facility for its specified station location, China Grove, N.C., or for the larger community of Kannapolis, N.C. Hinson argues the 50,000 population test set out in the Suburban Community Policy Statement, supra, was not intended as an inflexible standard, and that he has made the necessary threshold showing that the proposal actually seeks to serve Kannapolis rather than China Grove, citing in support V.W.B., Inc., 8 FCC 2d 744, 10 RR 2d 563 (1967). While admitting that the communities in question fail to meet the population test enunciated by the Commission, petitioner contends that the applicant's 500-watt proposal for China Grove (1960 U.S. Census population, 1,500) places its 5 mv/m contour over approximately one-third of Kannapolis (1960 Census population, 34,647), and extends its 2 mv/m contour over the remaining area of that community. According to Hinson, the 1960 population of China Grove was only one twenty-third the population of Kannapolis, and this disparity will grow larger as Kannapolis continues its steady expansion.[2] As additional support for the requested issue, petitioner alleges (a) that China Grove is only 5 miles from the center of Kannapolis and within that community's "metropolitan area"; (b) that because of China Grove's small population, the applicant would of necessity have to seek revenues outside of the community, most logically in Kannapolis; (c) that the residents of China Grove do their "significant shopping" in Kannapolis; (d) that coverage of China Grove could be achieved with 250 watts power rather than the 500 watts proposed; and (e) that since the Commission must designate the China Grove application for hearing in any event, because of its mutual exclusivity with the above-captioned Lexington proposal, a hearing would be an appropriate forum for full exploration of the question of which community China Grove Broadcasting Co. will realistically serve. Petitioner also implies that the applicant's motive in identifying with China Grove is primarily to gain a comparative hearing advantage over the Lexington proposal, since China Grove presently has no local broadcast service, whereas Lexington has existing AM (WBUY) and FM (WXLN-FM) stations.

8. In response, China Grove has simultaneously filed both a motion to dismiss Hinson's petition to deny as procedurally defective and an opposition pleading treating petitioner's objections on the merits. The applicant notes that although petitioner has made numerous statements of an allegedly factual and conclusive nature, his petition is unsupported by affidavits as required by § 1.580 (i) of the Commission's rules. Additionally, it is contended that Hinson has submitted a highly misleading map, which makes it appear that Kannapolis encompasses all of the area composing the cities of Concord, Landis, and China Grove, N.C. Regarding the merits of a 307(b) suburban issue, the applicant asserts that while China Grove has been incorporated since 1889, Kannapolis remains an unincorporated entity, without either established boundaries or normal municipal government, owing its existence solely to the Cannon Mills Co., which founded that community and still owns a substantial portion of its downtown business and residential areas. Noting that Kannapolis is divided into northern and southern portions by the Rowan-Cabarrus County line, the applicant argues that the area known as North Kannapolis (i.e., the portion located in Rowan County) is generally considered separate and apart from the Cabarrus County area of Kannapolis. This situation, according to the applicant, raises a question as to whether there is in reality any 5 mv/m penetration of Kannapolis, since China Grove's proposed 5 mv/m contour penetrates only North Kannapolis.[3] Moreover, the applicant argues that China Grove is itself a vigorous, self-sufficient community, complete with civic groups, churches, schools, and municipal functions, as well as a wide variety of retail stores and business establishments. With apparent reference to the availability of potential advertising revenues, the applicant has submitted an extensive listing (furnished by the Rowan County Tax Supervisor's Office) of area businesses. In addition, the applicant claims that a more realistic picture of the population of the China Grove area is provided by reference to the population of China Grove Township, placed at 19,172 by the 1960 U.S. Census. To further support its position the applicant disavows any intention of serving Kannapolis, stating that it is confident that China Grove and the adjacent towns of Landis, Faith, Rockwell, and Granite Quarry will adequately support the proposed station. According to China Grove, it was out of a desire to provide service to these additional small communities (and not to Kannapolis) that the 500-watt proposal was submitted.

9. In opposition to the applicant's motion to dismiss, petitioner Hinson, noting that the map exhibit questioned by the applicant is a portion of the larger U.S. Geographical Survey Topographical Map of the area, with this source and the scale of depiction identified on the face of the exhibit, reaffirms that accuracy of the map as a valid representation of the Kannapolis urbanized area. Hinson asserts that the shaded portions of the map, which allegedly correspond to similarly shaded areas on the larger USGS Topographical Map, do not purport to show the corporate boundaries of Kannapolis, or any other community, but only the general urbanized area under consideration herein. Regarding the initial lack of required affidavits, petitioner states that he has reiterated the same contentions, supported by the appropriate documents, in a subsequent reply to the applicant's opposition pleading.

10. In his reply, petitioner acknowledges that Kannapolis is unincorporated, but argues that this is no indication that the community is not a thriving entity, comparable to any other city of similar size. To counter the applicant's claim that Kannapolis is without municipal services, Hinson cites the existence of a volunteer fire department, a school system, a sanitary district, and the two-county police force servicing the community.[4] With reference to the applicant's statement that Kannapolis is a one-industry town, petitioner quotes from the applicant's own Exhibit No. 6 to the effect that virtually all the employment listed in China Grove is also under the auspices of the Cannon Mills Co. Hinson contends throughout that the applicant has confused the actual limits of Kannapolis proper, and has attempted to becloud the issue of the relative size of China Grove as compared to Kannapolis. Submitted as Appendix B is an excerpt from the North Carolina Session Laws of 1953, which creates the Kannapolis Street Planning Board, describing exactly the limits of its jurisdiction. These boundaries, which in petitioner's view constitute the outermost limits of Kannapolis, are depicted in petitioner's Appendix C, an allegedly official Street Planning Board map of Kannapolis. This map includes North Kannapolis within the area of the Board's jurisdiction. It is further argued that the Kannapolis school system includes the portion of the city in Rowan County, and that the U.S. Post Office in Kannapolis serves the areas of the city located both in Rowan and in Cabarrus Counties. Hinson claims that the applicant's reference to China Grove Township is misleading, since this area is merely an arbitrarily drawn subdivision of Rowan County, set for administrative

[2] Petitioner notes that Kannapolis has grown from its 1950 Census figure of 28,448 to its 1960 population of 34,647. In contrast, China Grove's population has remained static, as attested by the following U.S. Census figures: 1,567 in 1940; 1,491 in 1950; and 1,500 in 1960. Neither Hinson nor the applicant has provided more recent figures. According to Commission inquiry, the Census Bureau has not undertaken an official study of the area subsequent to 1960.

[3] The applicant has submitted numerous exhibits and affidavits to support its representations concerning the nature of the Kannapolis area. Attention is drawn to the lack of municipal services in Kannapolis. Police protection is provided by the Rowan and Cabarrus County Sheriffs' departments in their respective areas of authority. Water and sewage services are provided by the Cannon Mills Co. to the properties it owns, but all other residents of Kannapolis rely upon their own wells and septic tanks. There is no municipal trash collection. In the area known as North Kannapolis residents have joined together to form a sanitary district to provide for water and sewage facilities. The Kannapolis school system extends into both Rowan and Cabarrus counties, but, according to the applicant, most of the children residing in North Kannapolis attend Rowan County schools.

[4] Petitioner notes that while the applicant makes much of the fact that the Kannapolis police department is staffed by county deputies, China Grove's own Exhibit No. 8 states that the City of China Grove has one full-time patrolman who is a member of the Rowan County Sheriff's Department.

purposes and having no bearing on population concentrations. According to petitioner, within the area designated as China Grove Township are located not only China Grove, but all of that portion of Kannapolis which is situated in Rowan County. Thus, of the 19,172 persons in China Grove Township claimed by the applicant as a truer picture of the population it proposes to serve, 11,794 are alleged to live in Kannapolis itself. This, in petitioner's opinion, lays bare the applicant's actual intentions to operate as a Kannapolis rather than a China Grove station. Also with regard to the applicant's alleged intentions, Hinson argues that upon examination of China Grove's Exhibit No. 7, wherein some 388 businesses are listed as potential of revenue for the proposed station, a total of 134 are located in Kannapolis itself. Of the remainder, Hinson alleges that 29 have no telephones, and 43 have home telephones listed, indicating that they are small operations. Seven businesses appear twice on the list, and two have not been in operation for the past 2 years. Thus, petitioner contends that based on the information submitted in its own exhibit, the applicant intends to rely on businesses in Kannapolis proper for advertising revenues, and could therefore be expected to identify itself with the Kannapolis metropolitan area rather than serving the particular needs of its specified community of China Grove.[5]

11. With regard to the applicant's argument in paragraph 8, supra, that Hinson's petition to deny is procedurally defective, the Commission finds that petitioner, in failing to attach the required affidavits, did not comply with § 1.580(i) of the Commission's rules. Moreover, this defect was not remedied, as Hinson contends, by the repetition of his original arguments properly supported by affidavits in his reply pleading, since that pleading (considered as a petition to deny) was itself procedurally defective under § 1.580(i) by virtue of the fact that it was filed subsequent to China Grove's published cutoff date. Accordingly, the petition will be dismissed. Nevertheless, we will treat it as an informal objection under § 1.587 of our rules and, because of his interest in the matter, Hinson will be made a party to the hearing hereinafter ordered. As far as Hinson's map is concerned, we find upon comparison with our own USGS Topographic Map of the Kannapolis area that Hinson's exhibit is a reasonably accurate depiction.

12. In adopting the Suburban Community Policy Statement, supra, the Commission was careful to note that the 5 mv/m-50,000 population test was not meant to serve as an inflexible standard. We acknowledged the right of interested parties to attempt to raise the issue on petition and stated that such attempts would receive favorable consideration if the petitioner could make a threshold showing that the proposal would realistically afford primary service to a community other than the one specified. As noted in the V.W.B. case, supra, the burden a petitioner must carry under these circumstances is not a light one. Applications will not be designated for hearing merely because they happen to place a strong signal over a somewhat larger community. Fully cognizant of these considerations, we nevertheless conclude that, based on the weight of relevant factors, petitioner Hinson has made the requisite threshold showing, and that addition of a 307(b) suburban issue is therefore warranted in this case.

13. In reaching this conclusion, we rely heavily on the great disparity in population between China Grove and Kannapolis.[6] To determine population with respect to the operation of the suburban community presumption, the 1960 U.S. Census represents the most objective measurement. Babcom, Inc., 12 FCC 2d 306, 12 RR 2d 999 (1968). Reliance on official Census determinations are especially relevant in a case of this nature, where both the boundaries and population of the communities involved are subject to debate. We note that the Census includes both the Rowan and Cabarrus County portions of Kannapolis in its determination of that community's total population. Nowhere does the Census refer to North Kannapolis. Based on these factors, we can only conclude that, contrary to China Grove's contentions, Kannapolis proper includes the area known as North Kannapolis, and therefore that the applicant does in fact penetrate Kannapolis with its proposed 5 mv/m contour. As petitioner has pointed out, whether or not a city is incorporated is not the determinative factor under the Suburban Community Policy Statement, supra. In this connection, we note that we have already determined, pursuant to § 73.30 of the Commission's rules, that Kannapolis is an integral community so far as the allocation of its two existing AM and one FM broadcast facilities is concerned. While the existence of China Grove as a separate community is not disputed, its location in close proximity to Kannapolis, and the inconclusive nature of the applicant's showing as to the availability of revenues outside of Kannapolis proper,[7] place in question the ability of the proposed station to maintain itself as a local transmission service for China Grove. As previously mentioned, the applicant fully anticipates 5 mv/m service to the area known as North Kannapolis. Although the applicant's proposed operating power of 500 watts is not, in itself, so excessive as to throw in question its alleged intention primarily to serve China Grove and its immediate environs, examination of its engineering exhibits suggests that the applicant could, in fact, provide its intended service to the nearby communities of Landis, Rockwell, Granite Quarry, and Faith with a 250-watt proposal. Further examination also reveals that had the applicant specified its same 500-watt proposal for Kannapolis, the application would not have been accepted for filing due to prohibited adjacent channel overlap with Station WTYC, Rock Hill, S.C. In light of these factors, and considering the extensive factual data presented, we are of the opinion that a satisfactory resolution of the question of the applicant's actual intentions can best be ascertained within the framework of a full evidentiary hearing on the 307(b) suburban issue.

14. According to the China Grove application, funds in the amount of $49,325 will be required to construct and operate the proposed station for 1 year without revenues. The alleged cash requirements are as follows: Down payment on equipment, $4,800; first-year payments on equipment, with interest, $4,928; land purchase, $2,900; down payment and total first-year expenses on building, $1,091; and first-year working capital, $35,606. To meet these expenses, the applicant indicates reliance upon existing capital of $360, shareholder stock subscriptions of $22,500, and a loan commitment from the Northwestern Capital Corp. for $50,000. Examination of their personal balance sheets indicates, however, that two of the applicant's principals do not show sufficient liquid assets to meet their stock subscription agree-

[5] Attention is also drawn to the fact that certain of the applicant's shareholders herein (i.e., Dorothy D. Childers and Dr. and Mrs. R. N. Butler), while holding controlling interests in Station WKTE, King, N.C., filed an application (BP-16610) to increase power of that station from 500 watts to 5 kilowatts, thereby proposing a 5 mv/m penetration of Winston-Salem, N.C. This application was opposed by Station WSJS, Winston-Salem, and subsequently designated for hearing on a 307(b) suburban issue. Thereupon, the WKTE application was amended to reduce power to 1 kilowatt and was granted by the Commission on Oct. 11, 1967. Shortly thereafter, pursuant to Commission approval, the parties to the China Grove application transferred all their interest in WKTE. Noting this sequence of events, petitioner questions the applicant's professed confidence that a small community such as China Grove can support a radio station profitably. According to Hinson, "perhaps the sale (of WKTE) resulted from the frustration of the principals' attempts to increase power and serve Winston-Salem." The Commission has, however, refrained from any findings with reference to the alleged motives of the applicant in submitting a proposal for China Grove, or the fact that principals of the applicant have on another occasion been involved in a question of which community they actually intended to serve. Petitioner's statements regarding these matters, and the implications he attempts to draw from them, are without substantive support and purely speculative in nature.

[6] According to the 1960 U.S. Census, China Grove's population (1,500) is roughly 4 percent that of Kannapolis (34,647). This is approximately the same percentage of population disparity that existed in the V.W.B. case, supra.

[7] The applicant has submitted an extensive list of area businesses. However, as petitioner has noted, approximately one-third of these businesses have Kannapoils addresses. Furthermore, the list as a whole is merely an undigested compilation of names and addresses prepared by the Rowan County Tax authorities. Presumably, the applicant would rely upon many of these sources for advertising revenues, but no information is supplied as to the actual feasibility of any of them as potential customers.

ments totaling $15,000.[8] In addition, the letter of March 13, 1967, evidencing Northwestern Capital Corp.'s willingness to loan the applicant $50,000, fails to set out the terms of the loan's repayment or the necessary collateral as required by paragraph 4(h) of section III of Form 301. Furthermore, since it is not readily apparent from the letter itself that Northwestern Capital Corp. is a qualified lending institution, a financial statement demonstrating its ability to comply with the loan agreement is required. In view of these deficiencies, the applicant has shown the availability of only $7,860 toward meeting its $49,325 requirement. Therefore, an issue will be included to determine whether the applicant has sufficient funds available to construct and operate the station for 1 year without relying upon prospective revenue. *Ultravision Broadcasting Co.*, 1 FCC 2d 544, 5 RR 2d 343 (1965).

15. Review of the China Grove application raises a question as to whether the applicant has reasonable assurance of being able to secure its proposed antenna site. As Exhibit 4 to its application, China Grove has submitted an option agreement, whereby Britte M. Deal, owner of the property specified as the applicant's proposed antenna site, has agreed, in return for $100, to convey the land to Ray A. Childers, on or before January 30, 1968, upon payment of a $2,900 purchase price. The agreement also provides that Childers, by giving 30 days' notice and payment of an additional consideration of $100, may extend the option for another 12-month period beyond January 30, 1968. As presently constituted, the China Grove application fails to indicate whether Childers has exercised his option to buy the property, whether the agreement has been extended as provided, or whether, in light of Mr. Childers' withdrawal, the site is still available to the applicant. Accordingly, an issue will be included to determine whether there is reasonable assurance that China Grove will be able to secure its proposed antenna site.

16. Commission records indicate that Ray A. Childers currently has pending an application (File No. BP-17493) for a standard broadcast station to be located at Eden, N.C. This application, initially filed on October 27, 1966, was amended on April 29, 1968, to reflect the filing, on March 30, 1967, of the China Grove proposal. However, no reference, pursuant either to paragraph 19(b) of section II of Form 301, or to the requirements of § 1.65 of the Commission's rules,[9] has ever been made in the instant application to the pendency of Childers' Eden proposal. Since Mrs. Childers has from the outset remained a party to the China Grove application, the withdrawal of Ray A. Childers does not excuse the applicant's failure to mention Childers' Eden application. A proper response to paragraph 21(b) of section II requires complete disclosure of any interest in a pending application held by a close relative of one submitting the instant proposal. Childers' eventual amendment of his Eden application (albeit after a delay of over 1 year) to reflect his then interest in the China Grove proposal would tend to dispel any suspicion of concealment of his part. We note, however, that the ability of Mrs. Childers to meet her financial requirement, tied as it appears to be to her husband's financial position, is already in issue in this case. Therefore, any additional financial undertaking on Mr. Childers part, especially in the broadcast field, is of considerable significance in determining China Grove's eventual financial qualification. In view of these considerations, we are of the opinion that an issue, pursuant to § 1.65 of the rules, is warranted concerning China Grove's failure to correct and keep accurate its application and to determine the effect of this failure upon the applicant's requisite and comparative qualifications to receive a grant of its proposal. Cf. Vernon Broadcasting Company, 12 FCC 2d 946, 13 RR 2d 245 (1968); Romac Baton Rouge Corp., 7 FCC 2d 564, 9 RR 2d 1029 (1967).

17. With regard to the proposal submitted by Harry D. and Robert E. Stephenson for Lexington, N.C. (hereinafter Stephenson), an estimated $78,477, will be required to construct and operate the proposed station for 1 year without revenues, Anticipated expenses consist of down payment on equipment, $5,178; first-year payments on equipment, with interest, $5,599; cost of acquiring land and building, $12,000; miscellaneous, $2,500; first-year repayment of a bank loan including interest, $8,200; and first-year working capital, $45,000. The only source of funds indicated by the Stephensons as available to meet these expenses, is a $37,000 line of credit committed to them by the Bank of Fuquay, Fuquay Springs, N.C. Since this amount falls short of meeting their aforementioned financial needs, an issue will be added to determine whether the Stephensons have sufficient funds available to meet their requirements under the Ultravision standard, supra.[10]

18. Examination of the Stephensons' application discloses that, although it was retendered for filing (see footnote 10, supra) subsequent to November 1, 1965, the effective date of the revision of section IV of Form 301,[11] the application fails to contain either the new form itself, or the programing survey and detailed information now required. Because of this deficiency, the Commission is unable to determine whether the applicant is aware of and responsive to the needs of the Lexington community. Minshall Broadcasting Company, Inc., 11 FCC 2d 796, 12 RR 2d 502 (1968). Accordingly, an issue will be specified to determine the efforts made to ascertain the programing needs and interests of the Lexington community and the manner in which the applicant proposes to meet those needs and interests.

19. Examination of the Commission's Form 323 ownership reports reveals that substantial changes have occurred in the Stephensons' current broadcast interests which have not been reported on their application, as required by § 1.65 of the rules. Effective July 1, 1965, Capital Broadcasting Co., Inc., assigned the license of Station WRNC, Raleigh, N.C., to Robert E. and Harry D. Stephenson, doing business as Raleigh Radio Co. Subsequently, on March 21, 1967, the Commission granted an application (File No. BAL-6003) for assignment of license of WRNC to Raleigh Radio Co., Inc., a corporation in which the Stephensons each

[8] Richard H. Taylor has agreed to purchase $7,500 worth of stock in the applicant corporation, but his financial statement demonstrates availability of acceptable liquid assets (i.e., cash on hand and cash value of life insurance) of only $3,340. Ray A. Childers and his wife, Dorothy D. Childers, together initially agreed to purchase $7,500 worth of stock. On June 21, 1968, the China Grove application was amended to reflect the withdrawal of Mr. Childers and the assumption by Mrs. Childers of all his ownership interest in the corporation. A new balance sheet was not, however, filed by Mrs. Childers, and, according to the joint financial statement previously submitted on behalf of both herself and her husband, the Childers, even jointly, do not show total liquid assets sufficient to meet the $7,500 commitment now entirely assumed by Mrs. Childers. Although the Childers have also listed considerable assets comprised of stocks, bonds, real estate, and "business investment," none of these sources have been sufficiently identified to allow them to be credited toward Mrs. Childers' stock purchase obligation. See paragraph 4(d) of section III of Form 301.

[9] Section 1.65 of the rules requires that whenever the information contained in a pending application is no longer substantially accurate and complete in all significant aspects, the applicant shall, within 30 days, unless good cause is shown, attempt to amend his application to provide the correct information.

[10] Although the Stephensons estimate that $45,000 total first-year operating expenses will be required, they have based their showing of alleged financial qualification on one-fourth that amount ($11,250), as required under the former 3-month financial standard. This circumstance apparently resulted from the fact that the original Stephenson application, tendered on Apr. 12, 1965, and requesting waiver of § 1.569(b)(2)(i) of the rules, was returned as unacceptable for filing, because the applicant had failed to show that a grant of its application would not prejudice future consideration of the Class I-A clear channel, 1160 kc. On Nov. 22, 1965, the Stephensons retendered their proposal with supplemental engineering data to support the requested waiver. They also asked that their proposal be assigned a file number retroactive to Apr. 12, 1965. By letter of Nov. 9, 1966, the Commission granted a waiver of section 1.569, but specifically refused to assign a retroactive file number to the application. Meanwhile, the Commission decided the Ultravision case, supra, holding that the financial standard enunciated therein would be applicable to all applications filed after July 2, 1965. See Clarification of Applicability of New Financial Qualifications Concerning Standard Broadcast Applications, 1 FCC 2d 550, 5 RR 2d 349, released July 8, 1963. Thus, it would appear that in retendering their application, the Stephensons failed to consider the new financial criteria. Nor have they subsequently amended their application in keeping with the Ultravision requirements.

[11] Report and Order on Amendment of section IV (Statement of Program Service) of Broadcast Application Forms, 1 FCC 2d 439, 5 RR 2d 1773, released Aug. 12, 1965.

owned a 50-percent interest. Thereafter, on December 8, 1967, an ownership report was filed informing the Commission that the Stephensons had transferred a 45-percent interest in the licensee corporation to Norman J. Suttles, James C. Davis, and Derwood H. Godwin (15 percent each). The Stephensons continue to hold 55 percent of the corporation as joint owners. Neither the initial acquisition of WRNC, nor the above ownership transfers are reflected in any way on the Stephensons' Lexington application. As noted in Cleveland Broadcasting, Inc., 2 FCC 2d 717, 7 RR 2d 205 (1966), the requirements of § 1.65 of the Commission's rules are not met by filing information on Form 323 ownership reports. Furthermore, we are of the opinion that the change in question may be of particular significance in a comparative case such as we have here, for not only do the Stephensons now possess an additional broadcast interest in North Carolina, but the newly added principals at WRNC are extensively involved in station ownership throughout the State and elsewhere.[12] Accordingly, an issue will be added to determine the effect the Stephensons' failure to keep their application substantially correct and current may have on their requisite and comparative qualifications to receive a grant of their Lexington proposal.

20. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

21. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from each of the proposals and the availability of other primary service to such areas and populations.

(2) To determine, with respect to the application of China Grove Broadcasting Co.:

(a) Whether Richard H. Taylor and Mrs. Dorothy D. Childers have sufficient cash or liquid assets to meet their respective stock purchase commitments.

(b) Whether Northwestern Capital Corp. has sufficient cash or liquid assets to meet its loan commitment.

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

(3) To determine, with respect to the application of Harry D. and Robert E. Stephenson:

(a) The manner in which they will obtain additional funds to construct and operate the proposed station for 1 year.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(4) To determine whether there is reasonable assurance that China Grove Broadcasting Co. will be able to secure its proposed antenna site.

(5) To determine whether either applicant has submitted complete and accurate information in response to the Commission's Form 301, and has continued to keep the Commission advised of substantial and significant changes as required by § 1.65 of the Commission's rules.

(6) To determine, in light of the evidence adduced under the foregoing issue, whether either applicant has the requisite and comparative qualifications to receive a grant of its application.

(7) To determine the efforts made by Harry D. Stephenson and Robert E. Stephenson, copartners, to ascertain the programing needs and interests of the area to be served and the manner in which the applicant proposes to meet such needs and interests.

(8) To determine whether the proposal of China Grove Broadcasting Co. will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programing needs;

(b) The extent to which the needs of the specified station location are being met by existing standard broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific unsatisfied programing needs of its specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(9) To determine, in the event that it is concluded pursuant to the foregoing issue that the proposal will not realistically provide a local transmission service for its specified station location, whether such proposal meets all of the technical provisions of the rules for standard broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission service, namely, Kannapolis, N.C.

(10) To determine in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

(11) To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would better serve the public interest.

(12) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

22. *It is further ordered,* That the petition for reconsideration and return of the China Grove application filed by Foy T. Hinson is denied; and that the petition to deny the China Grove application also filed by Foy T. Hinson is dismissed.

23. *It is further ordered,* That Foy T. Hinson, licensee of Stations WRKB and WRKB–FM, Kannapolis, N.C., is made a party to the proceeding.

24. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

25. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 26, 1968.

Released: December 5, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[13]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 68–14718; Filed, Dec. 9, 1968; 8:48 a.m.]

[Docket Nos. 18387, 18388; FCC 68–1145]

KZNG BROADCASTING CO. AND CHRISTIAN BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of George T. Hernreich trading as KZNG Broadcasting Co., Hot Springs, Ark., Docket No. 18387, File No. BPH–6186. Requests: 106.3 mcs., No. 292; 3 kw. (H); 3 kw. (V); 276 feet. Christian Broadcasing Co., Hot Springs, Ark., Docket No. 18388, File No. BPH–6249. Requests: 106.3 mcs., No. 292; 0.457 kw. (H); 0.457 kw. (V) 670 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually

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[12] Norman J. Suttles and Derwood H. Godwin own substantial interests in the following stations: WFBS, Spring Lake, N.C.; WISP, Kinston, N.C.; WPVA and WPVA–FM, Petersburg-Colonial Heights, Va.; WSMY, Waldon, N.C.; and WSML, Graham, N.C. James C. Davis has ownership interests in Stations WISP, WPVA, WPVA–FM, and WSML.

[13] Commissioner Robert E. Lee concurring in the result. Commissioner Wadsworth absent.

exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. The Commission has received complaints against Hot Springs AM stations including those licensed to each of the subject applicants. Both stations are alleged to have engaged in the practice of conducting special contests or promotions during the times rating surveys were being made in the market in order to artificially improve the ratings of these stations. This practice, called "hypo-ing", is a serious matter which, if substantiated, would reflect adversely on the licensees' qualifications. In this case, information available to the Commission, from licensee responses to our inquiries and otherwise, raises a substantial question regarding "hypo-ing" by these stations. Accordingly, issues will be specified against both applicants to determine whether they engaged in this practice and, if so, its impact on their qualifications.

3. In Minshall Broadcasting Co., Inc., 11 FCC 2d 796, 12 RR 2d 502 (1968), and our public notice of August 22, 1968 (FCC 68-847), we indicated that applicants were expected to provide full information to show their awareness of and responsiveness to local programming needs and interests. Since KZNG Broadcasting Co. has failed to identify the local leaders contacted in connection with its survey, we are unable at this time to determine whether it is aware of and responsive to the needs of the area. Accordingly, a Suburban issue is required.

4. KZNG Broadcasting Co. proposes 31.81 percent duplicated programs while Christian Broadcasting Co. proposes only 8.33 percent duplicated programs. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury, 8 FCC 2d 360, FCC 67-614 (1967).

5. Such full comparison is warranted when one applicant proposes predominantly specialized programing and the other general market programing—Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, Christian Broadcasting Co. proposes predominantly religious programing and KZNG Broadcasting Co., proposes predominantly general market programing. Therefore, the programing proposals of the applicants may be compared under the standard comparative issue.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purposes of comparison, the area and populations within the 1 mv/m contours together with the availability of other FM service of 1 mv/m or greater intensity in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Christian Broadcasting Co. has requested waiver of § 73.210(a)(2) of the Commission's rules to permit the main studio to be located outside the city limits of Hot Springs, Ark., at a point other than the transmitter site. The proposed main studio location is conveniently located to Hot Springs residents and is already used for the companion AM station's main studio. Under these circumstances, we believe that adequate justification has been provided for waiver if the Christian Broadcasting Co. application is granted.

8. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

9. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether and, if so, the extent to which KZNG Broadcasting Co., conducted special contests or promotions in order to artificially improve its ratings, and in light of the evidence thus adduced, whether KZNG Broadcasting Co., possesses the requisite qualifications to obtain the requested authorization.

(2) To determine whether and, if so, the extent to which Christian Broadcasting Co., conducted special contests or promotions in order to artificially improve its ratings, and in light of the evidence thus adduced, whether Christian Broadcasting Co., possesses the requisite qualifications to obtain the requested authorization.

(3) To determine the efforts made by KZNG Broadcasting Co., to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine which of the proposals would better serve the public interest.

(5) To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications for construction permit should be granted.

10. *It is further ordered*, That if either or both applicants is found to have engaged in "hypo-ing", but as a result that disqualification is not warranted, the evidence regarding such "hypo-ing" may be considered and given appropriate weight under the comparative issue.

11. *It is further ordered*, That if the Christian Broadcasting Co. application is granted, the permit shall contain the following condition:

Section 73.210(a)(2) of the Commission's rules is waived to permit the establishment of the main studio outside the city limits of Hot Springs, Ark., near the intersection of Kingsway Drive and Buena Vista Road.

12. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 26, 1968.

Released: December 5, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 68-14719; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. 18204, 18205; FCC 68R-505]

SUMITON BROADCASTING CO., INC., AND CULLMAN MUSIC BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of Sumiton Broadcasting Co., Inc., Sumiton, Ala., Docket No. 18204, File No. BP-17108; Dan Cole Mitchell and Leon A. Murphree, doing business as Cullman Music Broadcasting Co., Cullman, Ala., Docket No. 18205, File No. BP-17193; for construction permits.

1. This proceeding involves the mutually exclusive applications of Sumiton Broadcasting Co., Inc. (Sumiton), and Cullman Music Broadcasting Co. (Cullman), seeking authority to construct new standard broadcast stations at Sumiton, Ala., and Cullman, Ala., respectively. The applications were designated for consolidated hearing by order, FCC 68-576, released June 4, 1968, 13 FCC 2d 221, 33 F.R. 8467, on issues relating to areas and populations, financial qualifications, ascertainment of needs (Suburban issue) and section 307(b).

[1] Commissioner Robert E. Lee concurring in the result. Commissioner Wadsworth absent.

Presently before the Review Board is a petition to enlarge issues, filed on June 24, 1968, by Cullman,[1] which seeks the addition of the following issues:

(1) To determine the facts and circumstances attending the preparation and filing of the Sumiton Broadcasting Co., Inc., application, and whether the application of Sumiton Broadcasting Co., Inc., was filed for the principal or incidental purpose of obstructing or delaying the establishment of a standard broadcast facility at Cullman, Ala.

(2) To determine, regarding the application of Sumiton Broadcasting Co., Inc., who are the real parties in interest in such application.

(3) To determine whether the application of Sumiton Broadcasting Co., Inc., failed to reveal that funds, credit, services, or other things of value had been or would be furnished by others, and whether failure was deliberate and intentional.

(4) To determine the extent to which the operating and program proposals set forth in the application of Sumiton Broadcasting Co., Inc., represent the intentions of the applicant.

(5) To determine whether, in light of the facts adduced pursuant to the foregoing issues, the applicant possesses the necessary character qualifications to be a licensee, and whether a grant of the application of Sumiton Broadcasting Co., Inc., would serve the public interest, convenience, and necessity.

(6) To determine the circumstances attending the filing of the October 13, 1967, letter from the Sumiton Bank to Sumiton Broadcasting Co., Inc., and whether the letter represents the applicant's present financial proposal.

(7) To determine the present financial status of Sumiton Broadcasting Co., Inc., and to determine the nature and extent of the financial interest in the applicant of its principals.

(8) To determine whether, in light of the evidence adduced pursuant to the prior issue, the applicant has available to it $3,000 in existing capital for the construction and operation of its proposed facility.

(9) To determine whether there exists an agreement between Sumiton Broadcasting Co., Inc., and Mr. Sartain, and, if so, to determine the terms and conditions of that agreement.

(10) To determine whether there was a failure to disclose either the true financial status of Sumiton Broadcasting Co., Inc., or an agreement between the applicant and Mr. Sartain, and, if so, whether such failure was intentional.

"Strike" and "Real Party in Interest" issues. 2. The thrust of Cullman's position in support of the requested "strike" and "real party in interest" issues is that the Sumiton application was a result of the coordinated efforts of Hudson Millar and James Jerdan Bullard (principals of standard broadcast station WKUL, Cullman, Ala.) and the four Sumiton principals, and that Millar and Bullard's purpose was to "block" Cullman's application. Hudson C. Millar, Jr., is president, director, and majority stockholder of Airmedia, Inc., which, in turn, controls Cullman Broadcasting Co., Inc., licensee of standard broadcast Station WKUL, Cullman, Ala. James Jerdan Bullard is vice president, treasurer, director, and stockholder of Airmedia, Inc., and president and director of WKUL. Bullard has been associated with Millar in connection with the latter's radio broadcasting enterprises since 1958. Cullman maintains that blocking or delaying the institution of Cullman's new radio service would result in an economic benefit to WKUL; that Millar and Bullard were directly involved in the promotion, preparation, and filing of the Sumiton application for the express purpose of blocking Cullman's application; and that "there were direct dealings between the present Sumiton principals and Millar and Bullard, and either an active participation in the plan to block Cullman Music, or an acquiescence in the Millar-Bullard plan."

3. Essentially, petitioner predicates its request for the "strike" and related issues on two incidents involving Hudson Millar, each of which is described in separate sworn statements attached to Cullman's petition. On May 26, 1965, Cullman filed an application for a construction permit for a new standard broadcast station to operate on the frequency 1540 kHz at Cullman, Ala. It is not disputed that shortly thereafter, in June 1965, following newspaper publication giving notice of the filing, Millar telephoned Dan Cole Mitchell, a Cullman partner, requesting a meeting "to discuss some business." The meeting was held later that day at Mitchell Motors, Inc., Mitchell's place of business in Cullman, Ala. According to Mitchell, in his sworn affidavit, and reaffirmed in an affidavit attached to Cullman's reply pleading, the following transpired during that meeting:

> Mr. Millar indicated his awareness of our pending application, and wanted to know why Mr. [Leon A.] Murphree [Mitchell's partner] and I wanted a radio station in Cullman. I indicated that Mr. Murphree and I felt that Cullman could support another station, and that we wanted to provide a new locally oriented broadcast service to the community. Mr. Millar asked whether I knew how expensive it could be to obtain a license from the [FCC]. I suggested that whatever the expense, we were prepared to undertake the project.
>
> Mr. Millar, then stated—and my recollection of his words is—"I will make it cost you $30,000 before you get FCC approval", and that in addition, "I will make it cost you 5 or 6 years of hard work" before FCC approval.
>
> Mr. Millar suggested that if we were that interested in a station in Cullman, he would be prepared to discuss selling us his station, or would sell us stock in Airmedia, Inc. [which was then being formed] * * *. I declined his offers. Mr. Millar left abruptly.

In his affidavit, Mitchell also maintains that "in a telephone conversation with * * * Bullard * * * on June 19, 1968, [he] stated to me that he had personally prepared the application which was filed by Sumiton * * * in January 1966.

4. On November 18, 1965, Cullman's application was returned by the Commission on the grounds that it violated § 73.187 of the Commission's rules which limits station radiation during "critical" hours. In the late fall of 1965, subsequent to the return of Cullman's application, Millar contacted Thomas Wayne Sims, a former employee of Millar's at the latter's radio stations (WKUL, Cullman, and WARF(AM), Jasper, Ala.), and requested a meeting with him "to talk over a business proposition." At the meeting, which was attended by Sims, Millar, and Bullard, Millar allegedly proposed a plan whereby Sims and others (now the Sumiton principals) would file an application for 1540 kHz in Sumiton, Ala., in order to "block" Cullman's application, which had already been returned by the Commission for technical reasons. According to Sims, in an affidavit attached to Cullman's petition, Millar acknowledged his awareness of the return of Cullman's application and stated that he wanted to have an application for Sumiton filed before Cullman refiled its application.[2] Millar allegedly offered financial support to Sims if the latter would participate in the plant to "block" Cullman's application. Following that meeting, Sims maintains that Millar and Bullard encouraged him several times via telephone to pursue the Sumiton venture, but Sims subsequently dropped out of the alleged plan because, among other things, he was "too busy" with other matters. These allegations are specifically reaffirmed by Sims in an affidavit attached to Cullman's reply. Finally, Cullman submits the affidavit of its consulting engineer, which purports to show that frequencies other than 1540 kHz—i.e., 1500 kHz, 1520

[1] Also before the Board are the following related pleadings: (a) Broadcast Bureau's partial support, filed Aug. 7, 1968; (b) opposition, filed Aug. 8, 1968, by Sumiton; (c) comments, filed Aug. 8, 1968, by Hudson C. Millar, Jr., and James Jerdan Bullard (intervenors); (d) exhibit No. 7 to (c), filed Aug. 9, 1968, by Millar and Bullard; (e) supplement to (b), filed Aug. 16, 1968, by Sumiton; (f) supplementary comments, filed Sept. 3, 1968, by Millar and Bullard; (g) erratum to (c), filed Sept. 6, 1968, by Millar and Bullard; (h) reply to (b) and (c), filed Sept. 16, 1968, by Cullman; (i) errata, filed Sept. 24, 1968, by Cullman; (j) reply to (f), filed Oct. 10, 1968, by Cullman; (k) comments on (f), filed Oct. 18, 1968, by the Broadcast Bureau; (l) request for leave to submit an additional pleading, filed Oct. 25, 1968, by Millar and Bullard; (m) response to (h) and (j), filed Oct. 25, 1968, by Millar and Bullard; (n) opposition to (l), filed Nov. 7, 1968, by Cullman; and (o) reply to (n), filed Nov. 22, 1968, by Millar and Bullard. By memorandum opinion and order released Aug. 7, 1968, Millar and Bullard were made parties to this proceeding "for the limited purpose of filing a pleading in response to the petition to enlarge issues, filed on June 24, 1968," by Cullman. FCC 68R-328, 14 FCC 2d 256, 13 RR 2d 1143.

[2] Cullman's application was refiled on Apr. 14, 1966. Sumiton's application was filed on Jan. 24, 1966.

kHz, and 1560 kHz—could have been applied for in Sumiton on a nondirectional basis. It is argued that none of these frequencies would have been in conflict with the Cullman proposal, and none could have been utilized in Cullman consistent with the Commission's rules and regulations.

5. The Broadcast Bureau supports the addition of the "strike" issue and the "real party in interest" issue, but maintains that since the next three requested issues are largely derivative, and are based on the same facts as are germane to issues 1 and 2, they should not be added. Sumiton and Millar and Bullard, in extensive pleadings with affidavits attached thereto, oppose the addition of all of the requested issues. In essence, it is Sumiton's position that the Sumiton application, which, when filed, was not in conflict with any pending application, was not filed for the purpose of blocking any application and that no collusion or conspiracy ever existed between Millar, Bullard, and Sims and the Sumiton principals. Sumiton maintains that no one associated with WKUL was responsible for filing the Sumiton application; that no consideration was given directly or indirectly by Millar or Bullard; that none of the Sumiton principals contacted Millar directly or indirectly in the preparation and filing of the Sumiton application; that Bullard, who was paid for his assistance in the preparation of the Sumiton application, was contacted after the plan to file the application had been made; that only one of the Sumiton principals knew that Bullard was associated with WKUL; and, finally, that the Sumiton principals were and are motivated by a desire to construct and operate a station and not by any ulterior purposes.

6. In their comments, Millar and Bullard deny that they attempted to block the Cullman application.[3] While admitting the truth of some of the allegations set forth in Cullman's petition, Millar and Bullard deny the damaging assertions contained in Mitchell's and Sims' affidavits, particularly Mitchell's charge that Millar impliedly threatened to block Cullman's application and Sims' charge that Millar told him that he (Millar) wanted to block the Cullman application. In brief, Millar and Bullard contend that they did nothing until Cullman's May 1965 application was returned by the Commission; that Millar and Bullard, being free to file an application for 1540 kHz themselves, "could bring to the attention of others the availability of the frequency and assist them in attempting to secure Commission consent to utilize the frequency"; that other frequencies than 1540 kHz could have been applied for in Cullman and therefore that a filing on 1540 kHz would not have prevented Cullman from filing in Cullman, Alabama, on one of the other frequencies; that neither Millar nor Bullard knew that Cullman would refile its application for 1540 kHz; and, lastly, that Cullman failed to make the "essential threshold showing" that either Sumiton or its principals knew or had reason to know of Millar and Bullard's alleged intent to "block" Cullman's application.[4] Detailed affidavits of Millar and Bullard, among others, supporting these contentions accompany the comments. Finally, Millar and Bullard request oral argument because of the complex factual questions presented.

7. In our view, the conflicts in the affidavits submitted by the parties should be resolved on the basis of an evidentiary record.[5] See Verne M. Miller, FCC 64R–275, 2 RR 2d 813, 816; Five Cities Broadcasting Co., Inc., FCC 62R–153, 24 RR 743, 745. In addition to the conflicting affidavits, however, there are a number of undisputed facts, which, taken together, also indicate the necessity of an evidentiary inquiry to determine whether the Sumiton application was filed either solely or in part for the purpose of delaying, blocking or frustrating the Cullman application.[6] First, Jerdan Bullard admittedly "assisted" in the physical preparation of the Sumiton application and the application fails to disclose this fact.[7] According to Bullard, his "assistance," which was allegedly solicited by one of the Sumiton principals, consisted of "making suggestions * * * about (Sumiton's) community needs survey, inspecting possible tower sites, and working directly with J. L. Sartain (a Sumiton principal) on the applicant's preparation of FCC Form 301 and some associated exhibits." Bullard was paid for his services by three of the Sumiton principals who purchased clock advertisements from Bullard. Next, Millar and Bullard have a motive for blocking Cullman's application. Cullman's proposed station would compete for revenues in Cullman with WKUL, and a blocking or delaying of the institution of this new service would obviously result in an economic benefit to WKUL. In fact, Millar admits to his belief that Cullman cannot support another standard broadcast station and alleges that that was one of the reasons for calling the now controversial meeting with Dan Mitchell in June 1965. Finally, Sumiton admittedly failed to investigate the possibility of using any other frequency than 1540 kHz.[8] The Sumiton principals chose the frequency upon the advice of Millar and Bullard and Sims. Sumiton's consulting engineer was asked by J. L. Sartain to determine "whether 1540 kHz could be used at Sumiton and if such frequency could be used, to prepare an application for a new * * * station at Sumiton * * * utilizing 1540 kHz." The same engineer prepared a study of available frequencies in Cullman in June 1965, at the express request of Hudson Millar. The engineer was not asked by the Sumiton principals to undertake a frequency study in the Sumiton area. In fact, the only person who allegedly conducted a frequency study in the Sumiton area was Jerdan Bullard, who is not an engineer. In view of all of the foregoing, a "strike" issue will be added.

8. In support of its request for a real party in interest issue, Cullman relies

[3] Millar and Bullard's request for leave to submit an additional pleading, filed on Oct. 25, 1968, will be denied. Contrary to Millar and Bullard's assertions, Cullman's reply pleadings do not raise "new matters," but merely respond to matters raised by Millar and Bullard in their comments and supplementary comments. As the Board stated in D. H. Overmyer Communications Co., 4 FCC 2d 496, 505, 8 RR 2d 96, 107 (1966): "Only in the most compelling and unusual circumstances where it is felt that basic fairness to a party requires such action will the Board permit the filing of pleadings beyond the limits prescribed in the rules, either in terms of number or of length." Millar and Bullard have failed to show either that "basic fairness" requires us to accept their unauthorized pleading or that we should depart from clearly defined precedent in this case.

[4] We reject Millar and Bullard's unsupported charge that Cullman's instant petition is an abuse of the Commission's processes. We likewise reject their charges concerning the character of Cullman, Wayne Sims, Dwight Cleveland, and Houston Pearce, principal of standard broadcast Station WARF, Jasper, Ala. (Among other things, Millar and Bullard assert that the Cullman principals along with Sims and Pearce are seeking to undermine the Sumiton application by unfair tactics.) Besides being irrelevant to the issues before us, these allegations are based solely on speculation and surmise.

[5] Millar and Bullard's request for oral argument will be denied. It is not the Board's practice to hold oral argument with respect to interlocutory matters except in the most unusual circumstances. Ottawa Broadcasting Corp. (WJBL), FCC 64R–382, 3 RR 2d 575, 578.

[6] Sumiton erroneously maintains that, "Before an application might be classified as a strike application, it is essential for an application with which it (the so-called strike application) is mutually exclusive to be pending before the Commission * * *. This element is completely lacking [here]." The timing of filing is merely one of several factors to be considered in determining whether an application has been filed for the purpose of delaying, blocking or frustrating another application. Blue Ridge Mountain Broadcasting Co., Inc., 37 FCC 791, 796, 2 RR 2d 511, 517 (1964), review denied FCC 65–5, released Jan. 7, 1965, affirmed per curiam sub nom. Gordon County Broadcasting Company v. FCC, Case No. 19, 165, 6 RR 2d 2044 (D.C. Cir. 1965). Cf. Hartford County Broadcasting Corp., 9 FCC 2d 698, 699, 10 RR 2d 1083, 1087 (1967). Moreover, Cullman's original application was filed before Sumiton's and there is a factual dispute in the pleadings as to whether Millar and Bullard and/or Sumiton knew, or had reason to know, that Cullman would refile.

[7] We agree with Cullman that Bullard's assistance should have been disclosed in the Sumiton application, Waco Radio Co., FCC 59–1238, 19 RR 538, 539, but do not believe that the failure to do so, standing alone, warrants the addition of a separate issue. Likewise, the other, essentially "derivative," issues requested by petitioner will not be added for the reasons advanced by the Broadcast Bureau. The fifth requested issue is conclusionary and is being incorporated in the issue being added herein. See paragraph 16, infra.

[8] The failure to conduct a frequency study is, under certain circumstances, a valid consideration in determining an applicant's intentions. Al-Or Broadcasting Co., 37 FCC 917, 922, 3 RR 2d 889, 896 (1964) (footnote 7), review denied FCC 65–99, released Feb. 11, 1965, affirmed per curiam sub nom. Corbett v. FCC, Case No. 19, 221, 6 RR 2d 2023 (D.C. Cir. 1965). There is a factual dispute as to whether other frequencies are in fact available in Sumiton. Cullman alleges that there are; Millar and Bullard contend that there are not. In view of this dispute, the matter should be resolved at the hearing.

solely on the allegations advanced in support of the "strike" issue, namely, that the Sumiton application was primarily the result of the efforts of Millar and Bullard, and that offers of financial and other assistance had been made by Millar and Bullard. In our view, Cullman's showing is insufficient to warrant the addition of a real party in interest issue. While the "strike" and "real party in interest" issues are related, there are meaningful distinctions between them and petitioner has failed to make the requisite connection in order to add the latter issue in this proceeding. Thus, the "strike" issue inquiries into the purpose for filing an application,[9] while the test for determining whether a third person is a real party in interest is whether that person has an ownership interest, or is or will be in a position to actually or potentially control the operation of the station.[10] In this case, while Cullman has successfully raised the question of whether the Sumiton application is, in fact, a "strike" application (see paragraph 7, supra), it has failed to make the requisite threshold showing to support its contention that Millar and Bullard are the real parties behind the Sumiton application. Thus, while Millar and Bullard may have assisted in the preparation of the Sumiton application in order to block Cullman, petitioner has not substantiated its charge that they (Millar and Bullard), and not the Sumiton principals, are the real parties in interest. In particular, petitioner did not show either that Sumiton or its principals received any consideration, directly or indirectly, from anyone in connection with the preparation, filing and prosecution of the Sumiton application, or that Millar or Bullard or anyone associated with WKUL has ever given any consideration, directly or indirectly, to any person associated with the Sumiton application. On the other hand, the Sumiton principals, in affidavits attached to the opposition, unequivocally state that no consideration was given by anyone, including the principals of WKUL, to the Sumiton principals or to the corporation; and that all costs incurred in the prosecution of the application were paid by Sumiton. Furthermore, Millar, in an affidavit attached to Millar and Bullard's comments, unequivocally states that neither he nor anybody associated with WKUL has ever given any consideration, directly or indirectly to any person associated with the Sumiton application. Significantly, Cullman has not shown the contrary. Therefore, Cullman's request for a real party in interest issue will be denied.

Financial and misrepresentation issues. 9. Cullman's requests for financial qualifications and misrepresentation issues (see paragraph 1, supra) are based upon alleged inconsistencies and contradictions in Sumiton's application, and upon Sumiton's failure to submit a copy of its agreement with J. L. Sartain, a Sumiton principal and the proposed general manager of Sumiton's station. In brief, Cullman raises questions concerning: (1) A bank letter attached to a Sumiton amendment; (2) Sumiton's existing capital; (3) the accuracy of certain exhibits filed with Sumiton's application; (4) Sumiton's candor in its representations concerning its financial status; and (5) the agreement with Sartain. The Bureau supports an inquiry into Sumiton's financial qualifications but would expand it to include the entirety of Sumiton's financial plans. Sumiton opposes the addition of all of the requested issues.

10. First, to support its request for an issue inquiring into the availability of Sumiton's proposed bank loan (requested issue No. 6, paragraph 1, supra), Cullman relies solely on the undisputed fact that the letter in question, showing the availability of a $65,000 loan, bore a date later than that of the amendment with which it was submitted. The bank letter is dated October 13, 1967, and the amendment is dated October 10, 1967. However, this discrepancy, standing alone, is insufficient to warrant an evidentiary inquiry for two reasons: (1) J. L. Sartain, president and stockholder of Sumiton, in an affidavit attached to the opposition, unequivocally states that the discrepancy in dates is attributed to human error only and Cullman does not challenge Sartain's explanation; and (2) Sumiton recently amended its application to reflect a new bank letter, dated August 2, 1968, which demonstrates the continued availability of the $65,000 bank loan.[11] Thus, there is no basis for Cullman's proposed inquiry.

11. Next, Cullmans questions Sumiton's existing capital of $3,000 on the following grounds: (1) The "possible" financial involvement of Millar and Bullard in Sumiton's activities; and (2) the absence of a "true" balance sheet in the Sumiton application. In our opinion, there is no basis for an inquiry into Sumiton's existing capital. First, petitioner fails to allege specific facts to support the contention that either Millar or Bullard are or have been financially involved in the Sumiton application. In this respect, Cullman's petition is based on speculation and surmise. Second, Sumiton has attached to its opposition a balance sheet dated July 1, 1968,[12] which shows that Sumiton has assets of $68,000, consisting of $1,150.47 in cash, a loan commitment of $65,000, and $1,849.53 in organizational expenses. The balance sheet also shows liabilities totaling $68,000, consisting of $1,000 in a stockholders' advancement, a $65,000 bank loan (see paragraph 10, supra),[13] and $2,000 in capital stock. Thus, while Sumiton's original capital has been reduced because of the payment of expenses, the most recent balance sheet clearly shows that Sumiton has sufficient capital and other assets ($66,150.47) to meet its estimated construction and first year operation costs ($52,158).[14] Accordingly, there is no basis for expanding the financial issue.

12. Cullman argues that there is "confusion" regarding the accuracy of two exhibits (Exhibits 2 and 3) filed with Sumiton's application. Thus, while Exhibit 3 states that three Sumiton stockholders paid $3,000 into Sumiton's bank account and Exhibit 2 states that "the applicant corporation has realized $3,000 from the sale of stock," Exhibit 1 states that only "$2,000 has been paid in cash" for the capital stock by the four Sumiton principals. The Board believes that an issue inquiring into the accuracy of Exhibits 2 and 3 is unnecessary. The only "error" in the application appears in Exhibit 2, wherein it is stated that Sumiton "has realized $3,000 from the sale of stock." In its opposition, Sumiton explains that Sumiton "has realized $2,000 from the sale of stock and has an additional $1,000 as advancements by stockholders." See paragraph 11, supra. The reason for the "confusion," explains Sumiton, is that there was a "last minute" change in capitalization from $3,000 to $2,000, the minimum in the State of Alabama.[15] With respect to the other matter (i.e., which stockholders actually paid in cash) it is clearly indicated in Exhibits 1, 2, and 3 that three stockholders (Dr. Chapman and Messrs. Ballenger and Fowler) paid in the entire $3,000 and that the fourth stockholder (Mr. Sartain) received his shares of stock "for his effort in organizing the company preparing [the] application, and in return for his [unwritten] agreement to serve as general manager of the station on full time basis." Exhibit 2.

13. Cullman also questions Sumiton's candor in its representations to the Commission concerning the corporation's financial status and requests an issue relating thereto. We agree with Sumiton that such an issue is not warranted. The "true financial status" of Sumiton, the subject of petitioner's proposed inquiry (see requested issue No. 10, paragraph 1, supra), has in fact, been disclosed in Sumiton's application and further clarified in the opposition pleading. See paragraphs 10–12, supra. Thus, the pertinent

[9] See Blue Ridge Mountain Broadcasting Co., Inc., supra.

[10] See WLOX Broadcasting Co. v. FCC, 104 U.S. App. D.C. 194, 260 F. 2d 712, 17 RR 2120 (1958).

[11] Sumiton's unopposed petition for leave to amend was granted by the Hearing Examiner on Sept. 24, 1968. FCC 68M–1333, released Sept. 25, 1968.

[12] The balance sheet accompanying Sumiton's application (Exhibit 3) is dated Jan. 3, 1966. That balance sheet shows assets of $3,000 in cash and no liabilities.

[13] The Commission designated a limited issue with respect to the bank loan. Issue 2, FCC 68–576, supra, 13 FCC 2d 221, 222.

[14] In its reply pleading, petitioner questions Sumiton's estimated miscellaneous and first year expense figures. However, these allegations cannot be accepted since they are speculative and are raised for the first time in a reply pleading. See Great River Broadcasting, Inc., 11 FCC 2d 338, 340, 12 RR 2d 80, 83 (1968) (footnote 9).

[15] J. L. Sartain, the Sumiton principal who prepared the application, was not aware of this change of capitalization, apparently because he was not required to put in any money. See affidavit of Dr. Jerry Chapman, Exhibit 1, page 9, Sumiton opposition.

facts relating to the bank letter, to Sumiton's existing capital, and to the stockholders' financial interest in the corporate applicant, are now before the Board and in our opinion no issue inquiring into these matters is justified. In essence, Cullman failed to raise a substantial question as to whether Sumiton, which had no apparent motive to misrepresent its financial status, actually misrepresented any facts to the Commission in its application, or whether the explanations contained in the opposition are erroneous.

14. Finally, Cullman requests an inquiry into an agreement between Sumiton and J. L. Sartain, a Sumiton principal, whereby the latter agrees to serve as the station's proposed full-time general manager. Cullman argues that while the agreement itself is disclosed in the Sumiton application,[16] the precise terms of said agreement have not been submitted in response to paragraph 22(d) of section II of FCC Form 301. That provision reads in pertinent part as follows: "Are there any documents, instruments, contracts, or understandings relating to ownership, management, use or control of the station or facilities, or any right or interest therein?" Sumiton answered "no" to this question. In Cullman's view, the agreement between Sumiton and Sartain falls within the proscriptions of paragraph 22(d), requiring a full disclosure by the applicant. However, Sumiton, in opposition, contends that no written agreement with Sartain was entered into and that the pertinent portions of the understanding with Sartain have already been disclosed to the Commission. The Board finds merit to these contentions. Moreover, the emphasis of paragraph 22, section II, clearly appears to be on control of the station, rather than the management of the station. Subsection (d) of paragraph 22 "must be answered in the light of" this ultimate objective. As correctly stated by Sumiton in its opposition, this is not an agreement which involves "ownership, control, or operation of the station." Sartain is already a Sumiton stockholder and will merely serve as the station's general manager. In any event, an attachment to the opposition, disclosing the understandings of the parties, shows that all four stockholders, including Sartain, will be involved in policy decisions affecting the station. Thus, while Sumiton may have technically been required to submit additional information with its application, we do not believe that under all of the circumstances here, a disqualification issue inquiring into this matter is warranted.

Millar and Bullard's supplementary comments. 15. Millar and Bullard were made parties to this proceeding "for the limited purpose of filing a pleading in response to the petition to enlarge issues, filed on June 24, 1968," by Cullman. Memorandum opinion and order, FCC 68R–628, supra, footnote 1. Nevertheless, Millar and Bullard have filed "supplementary comments" in this proceeding alleging that the Cullman proposal will result in prohibited overlap with the existing 0.5 mv/m contour of standard broadcast Station WLCB, Moulton, Ala., in violation of Commission § 73.37. Engineering data is attached to support this contention. While Millar and Bullard maintain that Cullman's "application should not have been accepted for filing in the first place and should now be dismissed summarily," they recognize the limited nature of their intervention and accordingly invite a motion to dismiss by "the other parties to this case" or, in the alternative, "appropriate action" by the Review Board on its own motion. It is clear that Millar and Bullard's "supplementary comments," which deal with a subject totally unrelated to the "strike" issue, are not filed by a proper party to this proceeding. The pleading is in direct contravention of the limited intervention granted by the Review Board in August 1968 (FCC 68R–628, supra), and therefore will not be considered.[17]

16. *Accordingly, it is ordered,* That the request for leave to submit an additional pleading, filed October 25, 1968, by Hudson C. Millar, Jr., and James Jerdan Bullard, is denied; that the request for oral argument, contained in the comments, filed by Millar and Bullard on August 8, 1968, is denied; that the petition to enlarge issues, filed June 24, 1968, by Cullman Music Broadcasting Co., is granted to the extent indicated below, and is denied in all other respects; and that the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether the application of Sumiton Broadcasting Co., Inc., was filed for the principal or incidental purpose of obstructing or delaying the establishment of a standard broadcast facility at Cullman, Ala., and whether, in light of the facts adduced, a grant of the application of Sumiton Broadcasting Co., Inc., would serve the public interest, convenience and necessity.

17. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issue added herein will be on Cullman Music Broadcasting Co., and the burden of proof under that issue will be on Sumiton Broadcasting Co., Inc.;

18. *It is further ordered,* That Hudson C. Millar, Jr. and James Jerdan Bullard are made parties to this proceeding solely with respect to the foregoing issue.

Adopted: December 4, 1968.

Released: December 6, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[18]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 68–14720; Filed, Dec. 9, 1968; 8:49 a.m.]

[16] Section IV–A of the Sumiton application refers to Sartain's proposed service as general manager, and Exhibit 2 refers to Sartain's agreement to serve as general manager.

[17] It may be noted in passing, however, that on Oct. 31, 1968, Sumiton, in a "Petition for Reconsideration and to Dismiss," requested the Commission to dismiss Cullman's application on the grounds cited by Millar and Bullard in their supplementary comments.

[18] Board Member Berkemeyer absent.

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND PIONEER ALASKA LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Wade Thompson, Assistant Manager, Property Management Department, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreement No. T–2229 between the Port of Seattle (Port), and Pioneer Alaska Line (Pioneer), formerly Kimbrell-Lawrence Transportation Co., covers the lease of a portion of Pier 66 and adjacent office and warehouse space, at a fixed monthly rental. The premises will be used by Pioneer for the operation of a general steamship business and related terminal operations. Port reserves secondary berthing rights provided that such use shall not unreasonably interfere with the activities of Pioneer. If approved, Agreement No. T–2229 will cancel and supersede Agreement No. T–2068, between Port and Kimbrell-Lawrence covering the same premises.

By order of the Federal Maritime Commission.

Dated: December 5, 1968.

THOMAS LISI, *Secretary.*

[F.R. Doc. 68–14676; Filed, Dec. 9, 1968; 8:45 a.m.]

ATLANTIC & GULF AMERICAN-FLAG BERTH OPERATORS AND WEST COAST AMERICAN-FLAG BERTH OPERATORS

Notice of Proposed Cancellation of Agreement

Notice is hereby given that the following agreement will be canceled by the Commission pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER.

Notice of cancellation of joint conference agreement No. 8750, as amended.

Agreement No. 8750, as amended, between the Atlantic & Gulf American-Flag Berth Operators (AGAFBO Agreement No. 8086–2, as amended) and the West Coast American-Flag Berth Operators (WCAFBO Agreement No. 8186, as amended) provides for discussion on matters of cargo transportation costs, space availability, sailing schedules, and related matters, and agreement as to rates, terms, and conditions of carriage of such cargo, for the purpose of negotiating rates, terms, and conditions for the carriage of Department of Defense cargoes. The cancellation by the Commission of the AGAFBO Agreement No. 8086–2, as amended, and the WCAFBO Agreement No. 8186, as amended, on October 23, 1968, rendered Joint Conference Agreement No. 8750, as amended, inoperative and it is therefore canceled.

By order of the Federal Maritime Commission.

Dated: December 4, 1968.

THOMAS LISI,
Secretary.

[F.R. Doc. 68–14677; Filed, Dec. 9, 1968; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI69–252]

BANQUETE GAS CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 29, 1968.

Banquete Gas Co., a division of Crestmont Oil & Gas Co.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate scheduled for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 22, 1969.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69–252	Banquete Gas Co., a division of Crestmont Oil & Gas Co., 1624 Vaughn Plaza, Corpus Christi, Tex. 78401.	1	4	United Gas Pipe Line Co. (Plymouth and East Taft Fields, San Patricio County, Tex.) (RR. District No. 4).	$11,730	10–29–68	[1] 12–6–68	[2] 12–7–68	[5] 12.1536	[3 4 5] 14.0	

[1] The stated effective date is the effective date requested by Respondent.
[2] The suspension period is limited to 1 day.
[3] "Fractured" rate increase. Respondent is contractually due a rate of 14.1792 cents per Mcf. (14 cents base plus 0.1792 cent tax reimbursement).
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.

Banquete Gas Co., a division of Crestmont Oil & Gas Co., (Banquete) is "fracturing" its contractually due rate of 14.1972 cents per Mcf and proposing a rate of 14 cents per Mcf. Although Banquete's proposed rate of 14 cents per Mcf does not exceed the area increase rate ceiling for Texas Railroad District No. 4 as announced in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56), it should be suspended since Banquete did not submit a waiver of its right to file for the remaining increment of its contractually due rate. Banquete has advised that it does not wish to submit such a waiver. Consistent with prior Commission action on similar "fractured" rate increases, we concluded that Banquete's proposed rate increase should be suspended for one day from December 6, 1968, the proposed effective date.

[F.R. Doc. 68–14721; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. G–294, etc.]

COLORADO INTERSTATE GAS CO.

Order Amending Orders Issuing Certificates of Public Convenience and Necessity, Redesignating Proceedings, and Accepting Revised Tariff Sheets for Filing

DECEMBER 2, 1968.

On September 5, 1968, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Petitioner) filed in Docket No. G–294 et al., a petition to amend the certificate applications, certificates of public convenience, and necessity, all findings and submittals related thereto, heretofore issued or submitted and any other proceeding, file or record before the Commission, under the name Colorado Interstate Gas Co. by substituting the name of Petitioner, Colorado Interstate Gas Co., a division of Colorado Interstate Corp., all as more fully set forth in the petition to amend.

Petitioner states that effective as of September 1, 1968, the corporate name "Colorado Interstate Gas Company" was

changed to "Colorado Interstate Corporation", and that the natural gas pipeline business heretofore conducted by Colorado Interstate Gas Co. will thereafter be carried on under the name "Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation." Petitioner requests that all applications, certificates heretofore issued, related materials, and any other proceeding, file or record before the Commission be amended to reflect the change in corporate name.

Due notice of the filing of the petition to amend has been given by publication in the FEDERAL REGISTER on October 3, 1968 (33 F.R. 14796). No protest, petition to intervene, or notice of intervention has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the applications submitted, orders issuing certificates of public convenience and necessity, all filings and submittals related thereto in Docket No. G–294 et al., and any other proceeding, file, or record pending before the Commission relating to Colorado Interstate Gas Co. should be amended or redesignated as hereinafter ordered, and the revised tariff sheets submitted should be accepted for filing.

The Commission orders:

(A) The Commission's orders issued in Docket No. G–294 et al., any matters pending at the time of the filing of the subject petition and any other applications, certificates of public convenience and necessity, orders, other proceeding, file, or record before the Commission, whether or not specifically listed in the subject petition, relating to Colorado Interstate Gas Co. are amended to reflect the substitution of the name Colorado Interstate Gas Co., a division of Colorado Interstate Corp., for the name Colorado Interstate Gas Co., all as hereinbefore described and as more fully set forth in the petition to amend.

(B) In all other respects the matters amended by this order shall remain in full force and effect.

(C) Revised tariff sheets submitted by Petitioner to its FPC Gas Tariff First Revised Volume No. 1 and Second Revised Volume No. 2 are accepted for filing effective as of September 1, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14679; Filed, Dec. 9, 1968; 8:45 a.m.]

[Docket No. CP69–150]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 27, 1968.

Take notice that on November 21, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69–150 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 facilities, 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 construct and operate approximately 26.5 miles of 30-inch pipeline extending from Applicant's California Mainline at a point upstream of Casa Grande Station to a point of connection with Applicant's 20-inch San Juan-Maricopa Line, together with related check metering and pressure regulating facilities.

Applicant states that the proposed facilities will increase the design capacity serving the Phoenix, Ariz., area by 227,000 Mcf, and is necessary to meet the increasing peak day requirements, with maximum reliability and flexibility of service, of the Phoenix area. Applicant states that the proposed installation will not increase capacity on Applicant's existing California Mainline System.

Total estimated cost of the proposed facilities is $4,306,095. Applicant proposes to finance said cost through the use of working funds supplemented as necessary by short-term loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 26, 1968.

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

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14722; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. CP69–151]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 27, 1968.

Take notice that on November 21, 1968, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP69–151 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks permission to abandon a meter station and necessary appurtenances located at a point adjacent to Applicant's 10¾ inch Tucson-Phoenix Line in Cochise County, Ariz., and formerly serving the Arizona Electric Power Cooperative (APCO) powerplant which has been dismantled.

Applicant also seeks permission to abandon a meter station and necessary appurtenances located at a point adjacent to Applicant's 6⅝ inch San Manuel-Hayden Line in Pinal County, Ariz., and formerly serving the community of Tiger, Ariz., said community having been abandoned.

Applicant states that it discontinued service to APCO on October 27, 1964, and to Tiger on August 24, 1967, but failed to seek permission and approval to abandon such service and the facilities utilized therefor through inadvertence.

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 December 26, 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 permission and approval for the proposed abandonment 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 is own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14723; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. CP69–147]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 29, 1968.

Take notice that on November 21, 1968, Kansas-Nebraska Natural Gas Co.,

Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebr. 68901, filed in Docket No. CP69–147 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to enable Applicant to take into its pipeline system natural gas which will be purchased from producers in the general area of Applicant's existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this "budget-type" application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system, supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $1 million, with no single project costing in excess of $250,000.

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 December 26, 1968.

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

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14724; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. CP69–148]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

DECEMBER 3, 1968.

Take notice that on November 21, 1968, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebr. 68901, filed in Docket No. CP69–148 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1969, and operation of certain natural facilities to enable Applicant to make sales of gas to existing distributors, to make direct sales of natural gas to consumers located outside franchise areas and to make miscellaneous rearrangements of existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of the certificate requested is to augment Applicant's ability to supply with the least possible delay, the natural gas requirements of its distributors in existing market areas and of small direct sale customers located in areas outside the franchise areas of natural gas distributors.

The total cost of the natural gas facilities proposed herein is not to exceed $100,000. Applicant states that this amount will be financed from current working funds.

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 December 30, 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14682; Filed, Dec. 9, 1968; 8:46 a.m.]

[Docket No. G–14936, etc.]

LAMAR HUNT ET AL.

Order Severing and Terminating Proceedings

DECEMBER 3, 1968.

Lamar Hunt, William Herbert Hunt Trust Estate, Lamar Hunt Trust Estate, Nelson Bunker Hunt Trust Estate, Area Rate Proceeding, et al., Dockets Nos. G–14936 and G–16615, G–14937 and G–16617, G–14938 and G–16618, G–14939 and G–16616, AR67–1 etc.

On October 30, and November 5, 1968, each of the above-named respondents filed a motion to terminate the respective above-docketed section 4(e) proceedings, and for each of said proceedings to be severed from the Area Rate Proceeding, Docket No. AR67–1.

Prior to December 1, 1959, each of the respondents made sales of natural gas to H. L. Hunt (Hunt) in the Lucky Field, Bienville Parish, North Louisiana, and Hunt, in turn, resold the gas to Texas Eastern Transmission Corp. On December 1, 1959, this arrangement ceased, and each respondent began making sales to Texas Eastern under its own rate schedule.[1] Subsequently, on March 28, 1958, each respondent filed a proposed increase in rate from 13.2751 cents to 14.0956 cents per Mcf, and on September 29, 1958, each filed a proposed increase in rate from 15.0956 cents to 15.3007 cents per Mcf for said sale. Each of the proposed increased rates were suspended by order of the Commission, and were subsequently made effective, subject to refund.

By order issued February 18, 1967, in the Area Rate Proceeding, Docket No. AR67–1, et al., 37 FPC 400, the Commission consolidated these proceedings therein.

On February 27, 1968, the respondents filed an offer of settlement whereby each agreed to accept the Seventh Amendment area price level of 16.7756 cents per Mcf, including tax reimbursement, for the sale to Texas Eastern. On April 11, 1968, the Commission approved the settlement proposal, thereby making effective a rate in excess of the rate suspended in each of the above-docketed proceedings for the same sale of gas for a later period. Consequently, the motions for severance and termination should be granted.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act, and the regulations thereunder, that the above-docketed section 4(e) proceedings be terminated, that each respondent should be relieved of its refund obligation in each of said proceedings, and that each proceeding be severed from the Area Rate Proceeding, Docket No. AR67–1.

The Commission orders: The above-docketed section 4(e) proceedings are terminated, each respondent is relieved of its refund obligation in each of said proceedings, and said proceedings are severed from the Area Rate Proceeding, Docket No. AR67–1.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14681; Filed, Dec. 9, 1968; 8:46 a.m.]

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[1] The sales are now being made under the following rate schedules: Lamar Hunt, FPC Gas Rate Schedule No. 9; William Herbert Hunt Trust Estate, FPC Gas Rate Schedule No. 10; Lamar Hunt Trust Estate, FPC Gas Rate Schedule No. 8; Nelson Bunker Hunt Trust Estate, FPC Gas Rate Schedule No. 7.

[Docket No. G–17371]

MONTANA POWER CO.

Notice Fixing Oral Argument

NOVEMBER 27, 1968.

The Commission has before it the Presiding Examiner's initial decision issued August 19, 1968, the brief on exceptions, and the briefs opposing exceptions. A request for oral argument was filed by High Crest Oils, Inc., in this proceeding.

Take notice that an oral argument in the above-designated matter will be heard by the Commission en banc commencing at 10 a.m., e.s.t., January 6, 1969, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

All parties desiring to participate in such oral argument shall notify the Secretary of the Commission in writing on or before December 9, 1968, of the amount of time desired for presentation of their respective arguments.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14725; Filed, Dec. 9, 1968; 8:49 a.m.]

[Docket No. AR61–1 etc.]

PERMIAN BASIN AND GULF OIL CORP.

Order Reinstating and Consolidating Proceeding

DECEMBER 3, 1968.

Area Rate Proceeding, et al. (Permian Basin), Docket No. AR61–1 et al., Gulf Oil Corp., Docket No. RI65–101.

By order issued February 6, 1968, in Docket No. G–3139 et al., the Commission granted in Docket No. CI68–659 permission for and approval of the abandonment by Gulf Oil Corp. of the sale theretofore authorized in Docket No. CI60–422 to be made pursuant to Gulf's FPC Gas Rate Schedule No. 187. The then effective rate under said rate schedule was in effect subject to refund in Docket No. RI65–101. Inasmuch as Gulf collected no amounts pursuant to its FPC Gas Rate Schedule No. 187 subject to refund in Docket No. RI65–101, said proceeding was severed from the consolidated proceeding on the order to show cause issued August 5, 1965, in Docket No. AR61–1 et al., 34 FPC 424, and terminated.

A review of the records of the Commission reveals that an increased rate under Gulf's FPC Gas Rate Schedule No. 205 was effective subject to refund in Docket No. RI65–101. Gulf's FPC Gas Rate Schedule No. 205 is not related to the sale authorized to be abandoned in Docket No. CI68–659. Therefore, the proceeding in Docket No. RI65–101 will be reinstated with respect to sales made pursuant to Gulf's FPC Gas Rate Schedule No. 205 and will again be consolidated with the proceeding in Docket No. AR61–1, et al.

The Commission orders: The proceeding in Docket No. RI65–101 is reinstated with respect to sales made pursuant to Gulf Oil Corp. FPC Gas Rate Schedule No. 205 and is consolidated with the proceeding on the order to show cause issued August 5, 1965, in Docket No. AR61–1 et al.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14680; Filed, Dec. 9, 1968; 8:46 a.m.]

[Docket No. CP69–149]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 29, 1968.

Take notice that on November 21, 1968, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP69–149 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 facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authority to construct and operate a sales meter station and appurtenant equipment to be located at milepost 1.34 at Applicant's existing 24-inch loop to its West End Lateral, in Kearney, Hudson County, N.J. Applicant proposes to utilize the said meter station as an additional point of delivery to Public Service Electric & Gas Co. (Public Service), an existing customer.

Applicant states that the proposed construction is necessary to provide gas service to Public Service.

Total estimated cost is $115,500. Financing will be from funds on hand.

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 December 26, 1968.

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

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–14727; Filed, Dec. 9, 1968; 8:49 a.m.]

LANDS WITHDRAWN IN PROJECT NO. 2294

Order Vacating Withdrawal Under Section 24 of the Federal Power Act

NOVEMBER 27, 1968.

Application has been filed by the Bureau of Land Management, Department of the Interior, for vacation of the power withdrawal pertaining to the following described lands of the United States.

FAIRBANKS MERIDIAN, ALASKA

All lands in T. 2 N., Rs. 2, 3, and 4 W., and T. 3 N., Rs. 1, 2, and 3 W., lying at and below the 550-foot contour along the Chatanika River from a point located approximately 1½ miles below the mouth of Shovel Creek upstream to the bridge of the Fairbanks-to-Livengood road.

The lands are included within selection applications filed by the State of Alaska under the Statehood Act of July 7, 1958 (72 Stat. 339) as amended. Vacation of the power withdrawal would assist the State to obtain title to the lands.

The lands, which lie along a 22-mile stretch of the Chatanika River northwest of Fairbanks, are withdrawn pursuant to the filing on March 20, 1961, by Chatanika Power Co. (Chatanika), of an application for preliminary permit for proposed Project No. 2294. No formal Commission notice of the withdrawal has been given. According to its application, the project power was to be sold to the Golden Valley Electric Association System for distribution in the latter's lines or for resale by Fairbanks Municipal Utilities System. In response to Commission telegram dated September 26, 1961, Chatanika advised that preliminary investigation of the project site would not be made until a "letter of intent" for purchase of the project power was obtained. By its order issued November 21, 1961, the Commission dismissed the application for permit. The Golden Valley Electric Association has constructed a 22,000 kw. mine-mouth steam generating plant at Healy to serve the Fairbanks area with power.

According to the U.S. Geological Survey, a reservoir in the reach of the Chatanika River herein involved could provide a storage capacity of 973,600 acre-feet with power facilities to develop about 6,100 kw. of prime power. However, the Survey concluded that development at this time or in the future is rendered highly conjectural since to develop even such a relatively small amount of power would require a dam creating a reservoir 22 miles long involving the inundation of a considerable area of lands to obtain the necessary storage capacity. The Survey points out, moreover, that according to the Alaska Power Administration the lands included in the withdrawal for

Project No. 2294 are of no concern to APA in any of its existing or pending proposals for development of a project, and the APA is conducting studies for a possible intertie of transmission facilities along the railbelt area to serve low-cost power to the Fairbanks area. The APA also points out that its studies indicate that the cost of development of the power potential in the reach of the Chatanika herein involved would be too high to merit consideration of a project as a Federal development.

Finally, there are numerous sites on various other streams for hydroelectric development to serve the Fairbanks area which are considered by those interested as superior to the Chatanika site.

The Commission finds: The withdrawal of the subject lands pursuant to the application for Project No. 2294 serves no useful purpose and should be vacated.

The Commission orders: The withdrawal of the subject lands pursuant to the application for Project No. 2294 is hereby vacated.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 68-14728; Filed, Dec. 9, 1968; 8:49 a.m.]

[Dockets Nos. G-3973, etc.]

MOBIL OIL CORP.

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

DECEMBER 3, 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 December 27, 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 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 18 CFR 2.56, 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.

GORDON M. GRANT, *Secretary.*

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

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3973 ..... (G-10633) C 11-13-68 [1]	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, La Gloria Field, Brooks and Jim Wells Counties, Tex.	14.0	14.65
G-11922 ..... D 11-6-68	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Taloga Field, Morton County, Kans.	Uneconomical	.....
CI61-674 ..... D 11-12-68	Mobil Oil Corp	Texas Gas Transmission Corp., South Thornwell Field, Jefferson Davis Parish, La.	Assigned [2]	.....
CI61-713 ..... D 11-14-68	Monsanto Co., 1300 Main St., Houston, Tex. 77002 (partial abandonment).	Transwestern Pipeline Co., Dude Wilson-Morrow Field, Ochiltree County, Tex.	(3)	.....
CI63-64 ..... D 11-7-68	Gregg Oil Co., Inc. (Operator) et al., c/o McHenry, Snellings, Breard, Sartor, and Shafto, 603 Bernhardt Bldg., Monroe, La. 71201.	Southern Natural Gas Co., acreage in Union Parish, La.	Uneconomical	.....
CI63-215 ..... D 11-18-68	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	(4)	.....
CI64-1007 ..... C 11-14-68	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	12.2339	15.025
CI65-199 ..... C 11-14-68	Texaco Inc., Post Office Box Box 52332, Houston, Tex. 77052.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	[5] 13.0	15.025
CI67-1437 ..... C 11-18-68	do	Natural Gas Pipeline Co. of America, Balko, South Field, Beaver County, Okla.	17.0	14.65
CI69-185 ..... A 8-19-68	Caroline Hunt Sands and Loyd B. Sands,[6] 1401 Elm St., Dallas, Tex. 75202.	El Paso Natural Gas Co., Amacker-Tippett Field, Upton County, Tex.	15.2025	14.65
CI69-394 ..... A 10-21-68	Cities Service Oil Co.,[6] Cities Service Bldg., Bartlesville, Okla. 74003.	Transwestern Pipeline Co., Rock Tank Unit, Eddy County, N. Mex.	15.5	14.65
CI69-459 ..... A 11-1-68	Pioneer Production Corp., Post Office Box 2542, Amarillo, Tex. 79105.	Pioneer Natural Gas Co., acreage in Moore County, Tex.	18.125	14.65
		Pioneer Natural Gas Co., Points along El Paso Natural Gas Co.'s facilities in West Texas and the Texas Panhandle.	17.0	14.65
		El Paso Natural Gas Co., San Juan Basin Area, N. Mex. and El Paso's Plains Compressor Station.	(7)	.....
		El Paso Natural Gas Co., Points upstream and downstream of El Paso's Dumas Compressor Station on El Paso's 24-inch pipeline.	(7)	.....
CI69-473 ..... A 11-13-68	Virginia Sherrill, 1002 South Milam, Amarillo, Tex. 79102.	Phillips Petroleum Co., West Panhandle Gas Field, Hutchinson County, Tex.	[5] 13.0	14.65
CI69-474 ..... A 11-7-68	Eliza Isabel Morgan and Anna Mildred Miller, Box 39, Edgewood Place, Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Coal District, Harrison County, W. Va.	25.0	15.325
CI69-475 ..... B 11-8-68	The Preston Oil Co., Post Office Box 2319, Columbus, Ohio 43216.	United Fuel Gas Co., Ellis Field, Acadia Parish, La.	Depleted	.....
CI69-476 ..... B 11-15-68	Humble Oil & Refining Co	Arkansas Louisiana Gas Co., Ames Field, Major County, Okla.	Depleted	.....
CI69-477 ..... B 11-15-68	Southwestern Oil & Refining Co. (Operator) et al.	Texas Eastern Transmission Corp., Riverdale Field, Goliad County, Tex.	Depleted	.....
CI69-478 ..... A 11-7-68	Allegheny Land and Mineral Co., 318 Professional Bldg., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Eagle District, Harrison County, W. Va.	30.0	15.325
CI69-479 ..... A 11-7-68	do	Consolidated Gas Supply Corp., Simpson District, Harrison County, W. Va.	30.0	15.325
CI69-480 ..... A 11-7-68	Clarksburg Water Board, 432 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Clark District, Harrison County, W. Va.	23.0	15.325

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
CI69-481 A 11-7-68	Jack E. & Dorothea Webber, Route No. 4, West Union, W. Va. 26456.	Consolidated Gas Supply Corp., Coal District, Harrison County, W. Va.	[9] 23.0 [10] 25.0	15.325
CI69-482 A 11-7-68	do	Consolidated Gas Supply Corp., Clark District, Harrison County, W. Va.	[9] 23.0 [10] 25.0	15.325
CI69-483 A 11-7-68	Kelly-Butterworth-Lemann, c/o Corinne Roy Kelly, partner, Post Office Box 8156, Shreveport, La. 71108.	do	[11] 28.0 [12] 30.0	15.325
CI69-484 A 11-8-68	Swadley Oil & Gas Co., c/o F. T. Woodford, treasurer, 3060 13th St., Cuyahoga Falls, Ohio 44223.	Consolidated Gas Supply Corp., Coal and Clark Districts, Harrison County, W. Va.	27.0	15.325
CI69-485 A 11-7-68	Midstates Gas Transportation Co., 383 Park St., Upper Montclair, N.J. 07043.	Consolidated Gas Supply Corp., Cove District, Doddridge County, W. Va.	[13]	15.325
CI69-486 A 11-7-68	do	Consolidated Gas Supply Corp., Greenbrier District, Doddridge County, W. Va.	30.0	15.325
CI69-487 A 11-12-68	TWM Petroleum, Inc., c/o L. David Wosk, executive vice president, Post Office Box 49896, Los Angeles, Calif. 40049.	Consolidated Gas Supply Corp., Elk District, Harrison County, W. Va.	[14] 28.0 [15] 30.0	15.325
CI69-488 A 11-18-68	The Superior Oil Co. (Operator) et al., Post Office Box 1521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Kaplan Field, Vermilion Parish, La.	17.5	15.025
CI69-489 B 11-18-68	Sun Oil Co. (Gulf Coast Division), 1608 Walnut St., Philadelphia, Pa. 19103.	Transcontinental Gas Pipe Line Corp., Egan Field, Acadia Parish, La.	Depleted	
CI69-490 A 11-18-68	Phillips Petroleum Co., Bartlesville, Okla. 74003.	Transcontinental Gas Pipe Line Corp., Greenbranch Field, McMullen County, Tex.	15.0	14.65
CI69-491 A 11-18-68	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	United Gas Pipe Line Co., South Jennings Field, Jefferson Davis Parish, La.	[16] 21.25	15.025
CI69-492 A 11-18-68	Paul M. Toce, Post Office Box 52401, OCS, Lafayette, La. 70501.	Gas Gathering Corp., Big Alabama Bayou Field, Iberville Parish, La.	20.0	15.025
CI69-493 A 11-18-68	Joe W. Elsbury, Jr., Post Office Box 51707, OCS, Lafayette, La. 70501.	Gas Gathering Corp., Happytown Field, St. Martin Parish, La.	20.0	15.025
CI69-494 A 11-18-68	Phillips Petroleum Co	Arkansas Louisiana Gas Co., Clarksville and Scranton Fields, Johnson County, Ark.	15.0	14.65
CI69-495 A 11-18-68	Texaco, Inc	Natural Gas Pipeline Co. of America, Lorena, West Field, Texas County, Okla.	[17] 18.5	14.65
CI69-496 A 11-18-68	Samedan Oil Corp., Post Office Box 909, Ardmore, Okla. 73401.	Southern Natural Gas Co., Stuard's Bluff Field and Chandeleur Sound Block 73 Field, Bernard Parish, La.	21.25	15.025
CI69-497 A 11-18-68	Nu-San Co., c/o Sol Smith, Esq., 815 Brown Bldg., Austin, Tex. 78701.	United Gas Pipe Line Co., Webb, North Field, San Patricio County, Tex.	12.0	14.65
CI69-498 (G-13633) F 11-12-68	Marshall Exploration, Inc. (successor to Union Producing Co.), Post Office Box 729, Marshall, Tex. 75670.	United Gas Pipe Line Co., Waskom Field, Harrison County, Tex.	[18] 11.75	14.65
CI69-499 A 11-20-68	George R. Womack, d.b.a. Womack Production Co., Post Office Box 7100, Shreveport, La. 71107.	Texas Gas Transmission Corp., Chickasaw Creek Field, La Salle Parish, La.	17.75	15.025
CI69-500 B 11-19-68	Sinclair Oil Corp., Post Office Box 521, Tulsa, Okla. 74102.	Trunkline Gas Co., Ragley Field, Beauregard Parish, La.	Depleted	
CI69-501 B 11-19-68	do	Trunkline Gas Co., West Nona Mills Field, Hardin County, Tex.	Depleted	
CI69-502 A 11-20-68	Humble Oil & Refining Co	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Deep Bayou Field, Cameron Parish, La.	21.25	15.025

[1] Adds interest of coowner, Broaddus Honeycutt. Subject acreage was acquired from Shell Oil Co., Docket No. G-10633.
[2] In addition to assigned leases amendment also deletes nonproductive leases that have been canceled and surrendered.
[3] Volume of available gas has declined to the point where continued operation of Purchaser's facilities is not justified.
[4] Due to approximate cost to connect small interest as compared to value of the gas, Purchaser has declined to connect its pipeline.
[5] Plus settlement for liquids.
[6] Applicant has agreed to accept permanent certificate subject to the conditions of Opinion No. 468, as modified by Opinion No. 468-A.
[7] Gas for gas exchange.
[8] Less 0.4466 cent per Mcf for sour gas.
[9] For all deliveries through 7,500 Mcf per month.
[10] For all deliveries in excess of 7,500 Mcf per month.
[11] If average daily delivery is less than 1,000 Mcf per month.
[12] If average daily delivery is 1,000 Mcf or more per month.
[13] Price is 32 cents per Mcf for first 1,000 Mcf average daily delivery; 33 cents for next 1,000 Mcf average daily delivery; 34 cents for all gas in excess of 2,000 Mcf average daily delivery.
[14] Gas produced above Tully Limestone Formation.
[15] Gas produced below Tully Limestone Formation.
[16] Applicant is willing to accept an initial price of 20 cents per Mcf for gas well gas subject to quality standard adjustments issued in Opinion No. 546.
[17] Contract provides for initial rate of 18.5 cents per Mcf, subject to upward and downward B.t.u. adjustment; however, Applicant has agreed to accept certificate conditioned to an initial rate of 17 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[18] Plus 1.28 percent tax reimbursement.

[F.R. Doc. 68-14683; Filed, Dec. 9, 1968; 8:45 a.m.]

[Docket No. CP69-152]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

DECEMBER 3, 1968.

Take notice that on November 25, 1968, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP69-152 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 18.5 miles of 20-inch pipeline extending from the terminus of the western shore of the Blue Water Project Facilities, proposed by Columbia Offshore Pipeline Co. (Columbia Offshore) in Docket No. CP68-231, as amended, and Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee) in Docket Nos. CP69-50 and CP69-53, to the pipeline system of Applicant at Eunice, La. and the construction and operation of a 1,320 horsepower compressor station at Eunice, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of the proposed facilities is to receive into its pipeline system volumes of natural gas from Columbia Offshore and Tennessee through the Blue Water Project Facilities. The estimated cost of the facilities herein proposed is $3,083,000, which cost will be financed through short-term borrowing and permanently financed through long-term debt.

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 December 30, 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-14684; Filed, Dec. 9, 1968; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

UNITED BANCSHARES OF FLORIDA, INC.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of United Bancshares of Florida, Inc., Coral Gables, Fla., for approval of acquisition of at least 66⅔ percent of the voting shares of United National Bank of Dadeland, Miami, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by United Bancshares of Florida, Inc., Coral Gables, Fla., a registered bank holding company, for the Board's prior approval of the acquisition of at least 66⅔ percent of the voting shares of United National Bank of Dadeland, Miami, Fla., a proposed new bank.

As required by section 3(b) of the Act, the Board notified the Comptroller of the Currency of receipt of the application and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on June 21, 1968 (33 F.R. 9229), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, for the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, pursuant to delegated authority, and that United National Bank of Dadeland shall be open for business not later than 6 months after the date of this order.

Dated at Washington, D.C., this 2d day of December 1968.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-14702; Filed, Dec. 9, 1968; 8:47 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Martin and Governors Robertson, Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Governor Brimmer.

SECURITIES AND EXCHANGE COMMISSION

TEXAS URANIUM CORP.

Order Suspending Trading

DECEMBER 4, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Texas Uranium Corp., Salt Lake City, Utah, 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 December 5, 1968, through December 14, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-14703; Filed, Dec. 9, 1968; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 259]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 5, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70819. By order of November 29, 1968, the Transfer Board approved the transfer to Russell Wayne Carter, doing business as Carter Van Lines Moving & Storage, Plainfield, Ind., of the operating rights in certificate No. MC-52294 issued November 3, 1958, to Paul C. Carter, doing business as Carter Van Lines, Zionsville, Ind., authorizing the transportation, over irregular routes, of household goods between Indianapolis, Ind., and points within 45 miles thereof, on the one hand, and, on the other, St. Louis, Mo., and points in Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, and the District of Columbia. Alki E. Scopelitis, 900 Circle Tower, Indianapolis, Ind. 46204; attorney for applicants.

No. MC-FC-70919. By order of November 29, 1968, the Transfer Board approved the transfer to W. H. Shaffer, Inc., Springfield, Ill., of the operating rights in certificate No. MC-123863 issued July 30, 1962, to Willard H. Shaffer, doing business as Shaffer's Garage, Springfield, Ill., authorizing the transportation of wrecked and disabled motor vehicles, and replacements for said vehicles, between points in Sangamon County, Ill., on the one hand, and, on the other, points in Indiana and those in that part of Missouri on and east of U.S. Highway 63. Robert T. Lawley, 308 Reisch Building, Springfield, Ill. 62701; attorney for applicants.

No. MC-FC-70924. By order of November 29, 1968, the Transfer Board approved the transfer to Riteway Transport, Inc., Salt Lake City, Utah, of certificate No. MC-98289 (Sub-No. 1), issued June 24, 1964, to Riteway Transport, Inc., Phoenix, Ariz., authorizing the transportation of *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *heavy or bulky articles* that require use of special equipment, and *household goods* as defined by the Commission, between points in McKinley, San Juan, and Valencia Counties, N. Mex., on the one hand, and, on the other, Durango, Colo., and points in Colorado within 100 miles thereof, Lupton, Ariz., and points in Arizona within 200 miles thereof, and Monticello, Utah, and points in Utah within 100 miles thereof; *general commodities,* except explosives, motor vehicles, commodities in tank trucks, and motion picture studio materials, supplies, equipment, and properties, between points both of which are served by rail lines or both of which are served by regular route motor common carriers. Robert R. Digby, Post Office Box 20433, Phoenix, Ariz. 85036; attorney for applicants.

No. MC-FC-70956. By order of November 27, 1968, the Transfer Board approved the transfer to Boyd Transfer Co., a corporation, Baltimore, Md., of the operating rights in certificate No. MC-78040 issued November 19, 1957, in the name of Morris Wiseman, and acquired by Boyd Transfer Co., a corporation, Baltimore, Md., pursuant to No. MC-FC-61516, consummated May 21, 1959, authorizing the transportation of paper boxes, from New York, N.Y., to Baltimore, Md.; furniture frames, from Jersey City, N.J., to Baltimore, Md.; new furniture, from Baltimore, Md., to Washington, D.C., Newark and Jersey City, N.J., and New York, N.Y., and new upholstered furniture, uncrated, from Baltimore, Md., to points in Pennsylvania, West Virginia, Connecticut, Virginia, Rhode Island, Massachusetts, and Delaware, points in New York, except New York, and points

in New Jersey, except Newark and Jersey City. J. G. Dail, Jr., Esq., Croft and Dail, Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006.

No. MC-FC-70763. By order of November 29, 1968, the Transfer Board approved the transfer to Car Carriers, Inc., Chicago, Ill., of a portion of the operating rights in certificate No. MC-4405, and the entire operating rights in certificates Nos. MC-4405 (Sub-No. 359) and MC-4405 (Sub-No. 402), issued November 18, 1965, October 19, 1961, and August 30, 1963, respectively, to Dealers Transit, Inc., Chicago, Ill., authorizing the transportation of: Automobiles, trucks, chassis, tractors, station wagons, in initial and secondary movements, in various conditions, new, used, and defective, damaged, or wrecked; automotive vehicles, and automobile show equipment, displays, and advertising matter, primarily confined to a service to plant-sites and facilities of the Ford Motor Co., between points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia, and Wisconsin. James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103; Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005, attorneys for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-14706; Filed, Dec. 9, 1968; 8:47 a.m.]

[Notice 743]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 4, 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 8948 (Sub-No. 82 TA), filed November 25, 1968. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, as classified in the Commission's rules and regulations governing the transportation of explosives and other dangerous articles (as adopted by the Department of Transportation), *ammunition* not included in classes A, B, and C explosives, and *component parts of ammunition and classes A, B, and C explosives;* (1) between Dallas, Tex., and the Louisiana Army Ammunition Plant at Doyline, La.; and (2) between Dublin, Calif., and Concord (Port Chicago), Calif., with authority to tack and join (1) and (2) above with all existing authorities, for 180 days. Supporting shipper: Military Traffic Management and Terminal Service. Send protests to: Robert G. Harrison, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 50493 (Sub-No. 39 TA), filed November 27, 1968. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, Pa. 18069. Applicant's representative: Frank A. Doocey, 601 Hamilton Street, Allentown, Pa. 18101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients such as meat scraps, bone meal, tankage, etc.*, dry, in bulk, in self-unloading equipment, from Avoca and Nescopeck, Luzerne County, Pa., to Waverly, Tioga County, N.Y., for 150 days. Supporting shipper: Tioga Mills, Inc., Waverly, N.Y. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 59856 (Sub-No. 30 TA), filed November 25, 1968. Applicant: SALT CREEK FREIGHTWAYS, 408 Industrial Avenue, Post Office Box 1411, Casper, Wyo. 82601. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value and except livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between Riverton, Wyo., and Jackson, Wyo., from Riverton over U.S. Highway 26 to Jackson, and return over the same route, serving all intermediate points between Jackson and Dubois; between the junction of U.S. Highway 26 and U.S. Highway 89 near Emma Matilda Lake and the south entrance of Yellowstone National Park; from the junction of U.S. Highway 26 and U.S. Highway 89 over U.S. Highway 89 to the south entrance of Yellowstone National Park, and return over the same route, serving all intermediate points; and serving in connection with both routes specified immediately above the off-points of Flagg Ranch, Coulter Bay, Jackson Lake Lodge, Teton Village, Moose and Signal Mountain Lodge, Wyo., for 180 days. NOTE: Applicant states it intends to tack with its presently held authority and to interline at any authorized point. Supporting shippers: There are approximately 21 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: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 259 South Center Street, Casper, Wyo. 82601.

No. MC 100684 (Sub-No. 4 TA), filed November 29, 1968. Applicant: CLIFFORD A. MANGUS, doing business as MANGUS COMPANY, 606 South Main Street, Lusk, Wyo. 82225. Applicant's representative: Robert S. Stauffer, 1510 East 20th Street, Cheyenne, Wyo. 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air compressors*, permanently mounted on shipper-owned trailers, between points in California, Colorado, Nevada, Utah, and Wyoming, for 180 days. Supporting shipper: Dresser Magcobar, Division of Dresser Industries, Inc., 365 Petroleum Club Building, Denver, Colo. 80202. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 304, Lierd Building, 259 South Center Street, Casper, Wyo. 82601.

No. MC 109677 (Sub-No. 35 TA), filed November 29, 1968. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, N.Y. 12828. Applicant's representative: J. Fred Relyea (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and heating oils*, in bulk, in tank vehicles, from Plattsburg, N.Y., to Alburg and Swanton, Vt., for 180 days. Supporting shipper: Humble Oil & Refining Co., Pelham, N.Y. 10803. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 111839 (Sub-No. 7 TA), filed November 29, 1968. Applicant: BEE LINE EXPRESS, INC., Post Office Box 388, Highway 75 North, Albertville, Ala. 35950. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between Albertville and Scottsboro, Ala., from Albertville, Ala., over U.S. Highway 431 to Guntersville, Ala., thence over Alabama Highway 79 to Scottsboro, Ala., and return over the same route, serving all intermediate points; between Albertville, Ala., and Chattanooga, Tenn.; from Albertville, Ala., over Alabama Highway 75 to intersection of Alabama Highway

68, thence over Alabama Highway 68 to Collinsville, Ala., thence over Interstate Highway 59 or U.S. Highway 11 to Chattanooga, Tenn., and return over the same route, serving the intermediate points of Collinsville and Fort Payne, Ala.; between Scottsboro, Ala., over Alabama Highway 35 to Section, Ala., thence over Alabama Highway 71 to intersection of Alabama Highway 117, thence over Alabama Highway 117 to Ider, Ala., and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant requests permission to tack all of the above new authority with present authority granted under Dockets MC 111839 and MC 111839 Sub 6 at Albertville and Scottsboro, Ala. Supporting shippers: There are approximately 18 statements from supporting shippers attached to the application, which may be examined here at the offices of the Interstate Commerce Commission in Washington, D.C., or copies thereof at the field office named below. Send protests to: District Supervisor B. R. McKenzie, Bureau of Operations, Interstate Commerce Commission, Room 823, 2121 Building, Birmingham, Ala. 35203.

No. MC 118448 (Sub-No. 3 TA), filed November 27, 1968. Applicant: HOWARD BAYLESS, ALICE BAYLESS, RICHARD ROBERTS, ROBERT ROBERTS, AND ELLIS ROBERTS, a partnership, doing business as BAYLESS & ROBERTS, C Street, Copper Center, Alaska 99573. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment, materials, supplies and building materials*, from Seattle via the Alaska Marine Ferry System to Haines, Alaska, serving Haines for purposes of joinder or tacking only with authority presently held under Docket MC-118448 authorizing authority between points in Alaska north of Haines, Alaska, and return by the same route, for 180 days. NOTE: Applicant states it proposes to tack at Haines, Alaska, with its authority in MC 118448. Supporting shippers: There are approximately 26 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: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 1532, Anchorage, Alaska 99501.

No. MC 118989 (Sub-No. 20 TA), filed November 27, 1968. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, Wis. 53221. Applicant's representative: R. G. Blazewick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Ligonier, Ind., to St. Louis, Mo., for 120 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166 (B. J. Burke, Division Transportation 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 121533 (Sub-No. 3 TA), filed November 25, 1968. Applicant: WESTERN HAULING, INC., Post Office Box 3001, Seattle, Wash. 98114. Applicant's representative: George Karginis, 609–11 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Seattle, Wash., on the one hand, and, on the other, points in Washington; (2) *grain*, from points in Washington east of the Cascade Range to Seattle, Tacoma, and Everett, Wash.; (3) *feed*, from Seattle and Tacoma, Wash., to Walla Walla, Spokane, Moses Lake, Yakima, Quincy, and Ephrata, Wash.; (4) *fertilizer*, from Seattle and Tacoma, Wash., to Spokane, Moses Lake, and Quincy, Wash., and points within 5-mile radius of said cities; (5) *scrap metal*, (a) from points in Grant, Okanogan, Chelan, Spokane, Pierce, Kipsap, Whatcom, Clark, and Snohomish Counties, Wash., to Seattle, Wash.; (b) from Seattle, Wash., to Spokane, Wash.; (6) *heavy machinery*, between points in Washington; (7) *hay, straw, grain, and seed*, between points in Washington; (8) *building materials*, except cement in bulk in tank or bottom dump vehicles or similar specialized equipment, between points in Washington; (9) *building hardware supplies*, between points in Washington; (10) *fruits and vegetables*, between points in Yakima and Kittitas Counties, Wash., on the one hand, and, on the other, points in King, Pierce, Yakima, Spokane, and Chelan Counties, Wash.; (11) *peat and/or peat moss*, in bags, bales, and cartons and/or boxes; (a) between points in Washington west of the Cascade Range; (b) from points in Washington west of the Cascade Range to points in Washington east of the Cascade Range; (12) *box shook;* (a) between points in Yakima County, Wash., on the one hand, and, on the other points in Benton County, Wash.; (b) between Spokane, Wash., and points in Benton County, Wash., for 150 days. Supporting shippers: There are approximately 16 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: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 123408 (Sub-No. 20 TA), filed November 29, 1968. Applicant: FOOD HAULERS, INC., 600 York Street, Elizabeth, N.J. 07207. Applicant's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, between Baltimore, Md., and Edgewater, N.J., under contract with Lever Brothers Co., for 180 days. Supporting shipper: Lever Brothers Co., 390 Park Avenue, New York, N.Y. 10022. Send protests to: District Supervisor Walter J. Grossmann, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 125506 (Sub-No. 10 TA), filed November 27, 1968. Applicant: JOSEPH ELETTO TRANSFER, INC., 31 West St. Marks Place, Valley Stream, N.Y. 11580. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores*, and *advertising and display materials*, between New York, N.Y., on the one hand, and, on the other, Short Hills, N.J., for 180 days. Supporting shipper: Bonwit-Teller, a division of Genesco, Inc., 721 Fifth Avenue, New York, N.Y. 10022. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 20 Federal Plaza, N.Y. 10007.

No. MC 125535 (Sub-No. 1 TA), filed November 27, 1968. Applicant: JOHN J. SHARP, 346 Central Avenue, Woodbury, N.J. 08097. Applicant's representative: Theodore Polydoroff, 1120 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigeration and freezing units, machines, and equipment and parts and supplies* connected therewith, uncrated (except those which because of the size or weight require the use of special equipment or handling), and *shelves, bins, and checkout counters;* (a) from railheads in Philadelphia, Pa., to the plantsite of Hussmann Refrigerator Co. at Cherry Hill, N.J.; and (b) from railheads in Philadelphia, Pa., to points in Connecticut, Delaware, New Jersey, Maryland, Pennsylvania, New York, Massachusetts, Rhode Island, Virginia, West Virginia, and the District of Columbia, and *damaged and defective equipment* described above; from the above-specified destination points to the plantsite of Hussmann Refrigerator Co. at Cherry Hill, N.J.; (2) *Refrigeration and freezing units, machines, and equipment and parts and supplies* connected therewith, uncrated (except those which because of size or weight require the use of special equipment or handling), from the plantsite of Hussmann Refrigerator Co. at Cherry Hill, N.J., to points in Massachusetts, Rhode Island, Virginia, West Virginia, that part of Maryland west of U.S. Highway 15, that part of Pennsylvania west of U.S. Highway 219, and that part of New York on and west of New York Highway 14, and *damaged and defective equipment* described above; from the above-specified destination points to the plantsite of Hussmann Refrigerator Co. at Cherry Hill, N.J.; and (3) *Shelves, bins, and checkout counters*, from the plantsite of Huss-

mann Refrigerator Co. at Cherry Hill, N.J., to points in Connecticut, Delaware, New Jersey, Maryland, Pennsylvania, New York, Massachusetts, Rhode Island, Virginia, West Virginia, and the District of Columbia; *damaged and defective equipment* described above, from the above-specified destination points to the plantsite of Hussmann Refrigerator Co. at Cherry Hill, N.J. Restriction: The operations described herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Hussmann Refrigerator Co. of Cherry Hill, N.J., for 180 days. Supporting shipper: Hussmann Refrigerator Co., Post Office Box 507, Cherry Hill, N.J. 08034. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 126512 (Sub-No. 4 TA), filed November 29, 1968. Applicant: BROAD TOP SALES AND SERVICE, INC., 11 North Carlisle Street, Greencastle, Pa. 17225. Applicant's representative: Raymond K. Meyers (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Somerset and Westmoreland Counties, Pa., to Baltimore, Hagerstown, Williamsport, and Lima Kiln, Md., under continuing contracts with C. W. Brown doing business as C. W. Brown Coal Co., and Robert H. Glessner, Jr., doing business as Glessner Mines, for 180 days. Supporting shippers: C. W. Brown, doing business as C. W. Brown Coal Co., Box 23, Whitney, Pa. 15693; Robert H. Glessner, Jr., doing business as Glessner Mines, Route 1, Berlin, Pa. 15530. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations 508 Federal Building, Post Office Box 869, 228 Walnut Street, Harrisburg, Pa. 17108.

No. MC 126625 (Sub-No. 6 TA), filed November 29, 1968. Applicant: MURPHY SURF-AIR TRUCKING COMPANY, INC., Blue Grass Field, Lexington, Ky. 40505. Applicant's representative: John Ryan, 403 West Main Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Lincoln and Marion Counties, Ky., on the one hand, and, on the other, Blue Grass Field, Lexington, Ky., Greater Cincinnati Airport, near Erlanger, Ky., and Standiford Field, Louisville, Ky., (2) between points in Fayette County, Ky., on the one hand, and, on the other, Weir-Cook Airport, Indianapolis, Ind., and James Cox Municipal Airport, Vandalia, Ohio, restricted to shipments having an immediately prior or subsequent movement by air, for 180 days. Supporting shippers: Thomas Price, Traffic Manager, Cowden Manufacturing Co., 300 New Circle Road NW., Lexington, Ky. 40505; Robert Ishmael, General Manager, Angell Manufacturing Co., Route 27 and Bypass Road, Stanford, Ky. 40484; Lawrence Tatum, Traffic Manager, The Dayton Etched Products Co., Lebanon, Ky. 40033. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 203 Featherston Building, 177 North Upper Street, Lexington, Ky. 40507.

No. MC 127840 (Sub-No. 22 TA), filed November 29, 1968. Applicant: MONTGOMERY TANK LINES, INC., 612 Maple, Willow Springs, Ill. 60480. Applicant's representative: William H. Towle, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean oil*, in bulk, in tank vehicles, from Hammond, Ind., to Baton Rouge, La. for 150 days. Supporting shipper: Swift Chemical Co., 1801 167th Street, Hammond, Ind. 46320. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 129135 (Sub-No. 6 TA), filed November 27, 1968. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Allan Katuin (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used foundry sand*, in bulk, from Dubuque, Iowa, to Trevor, Wis., and *return filtered used foundry sand*, in bulk, from Trevor, Wis., to Dubuque, Iowa, for 180 days. Supporting shipper: Salvage Service Corp., Post Office Box 171, Trevor, Wis. 53179. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 133119 (Sub-No. 2 TA), filed November 29, 1968. Applicant: DONALD L. HEYL, doing business as HEYL TRUCK LINES, Box 755, Akron, Iowa 51001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxed frozen meat*, from Sioux City, Iowa, to Milwaukee, Wis., for 180 days. Supporting shipper: Frank A. Priebe, Division of L. D. Schrieber, 110 North Franklin Street, Chicago, Ill. 60606. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 133306 TA, filed November 27, 1968. Applicant: COUSINS TRANSPORTATION CO., INC., 106 Van Dyke Street, Brooklyn, N.Y. 11231. Applicant's representative: George Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Housewares and giftwares*, from points in the New York, N.Y., Harbor, as defined by the Commission to Westbury, N.Y., for 150 days. Supporting shipper: Ireb Import Export & Affiliates, Westbury, N.Y. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, N.Y. 10007.

No. MC 133307 TA, filed November 27, 1968. Applicant: LEE HENDERSON, Route No. 4, Buhl, Idaho 83316. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients, fertilizers* (liquid and dry, bulk or sacked), *burlap and paper bags and twine and agricultural commodities and fish* which are partially exempt under section 203(b)(6) of the act, when transported with above listed regulated commodities, between points in Idaho, south of southern boundary of Idaho County on the one hand, and points in California, Oregon, Washington, Arizona, Utah, Nevada, New Mexico, Colorado, Wyoming, and Montana, on the other hand, for 180 days. Supporting shipper: Rangen, Inc., Post Office Box 706, Buhl, Idaho 83316. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho, 83702.

No. MC 133309 TA, filed November 27, 1968. Applicant: ENGEL & GRAY, INC., 745 West Betteravia Road, Santa Maria, Calif. 93454. Applicant's representative: Wyman Knapp, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contractor's equipment, materials, and supplies*, from railheads located at Santa Maria, San Luis Obispo, Grover City, Guadalupe, and Pismo Beach, Calif., to the Diablo Canyon Nuclear Power Plant, located approximately 7 miles northwest of the unincorporated community of Avila Beach, Calif., under continuing contract with Pacific Gas & Electric Co., for 180 days. Supporting shipper: Pacific Gas & Electric Co., 245 Market Street, San Francisco, Calif. 94106. Send protests to: District Supervisor, John E. Nance, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133310 TA, filed November 29, 1968. Applicant: KENNETH L. PARKS AND KEITH O. PARKS, a partnership, doing business as K & K WHOLESALE CO., Post Office Box 222, Lowell, Oreg. 97452. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Yamhill, Marion, Linn, Lane, Douglas, Benton, Polk, and Clackamas Counties, Oreg., to points in Clark County, Nev., for 180 days. Supporting shipper: Western Distributors, Inc., Post Office Box 948, Eugene, Oreg. 97401. Send protests to: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

MOTOR CARRIER OF PASSENGERS

No. MC 61598 (Sub-No. 49 TA), filed November 25, 1968. Applicant: SMOKY MOUNTAIN STAGES, INCORPORATED, 417 West Fifth Street, Charlotte, N.C. 28202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, their baggage, light express, and newspapers in the same vehicle with passengers;* (1) from Dellwood, N.C., to Gatlinburg, Tenn., and return; (2) from Dellwood, N.C., over North Carolina Highway 284 to its junction with Interstate Highway 40, thence over I–40 to its junction with Wilton Springs Road (County Road 2484), thence over Wilton Springs Road to its junction with Tennessee Highway 32, thence over Tennessee Highway 32 to its junction with Tennessee Highway 73, thence over Tennessee Highway 73 to Gatlingburg, Tenn., and return over the same route, for 180 days. NOTE: Applicant states the proposed operations would be joined with its present held authority in MC 61598. Supporting shipper: Continental Trailways, Charlotte, N.C. 28201. 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. 68–14707; Filed, Dec. 9, 1968; 8:48 a.m.]

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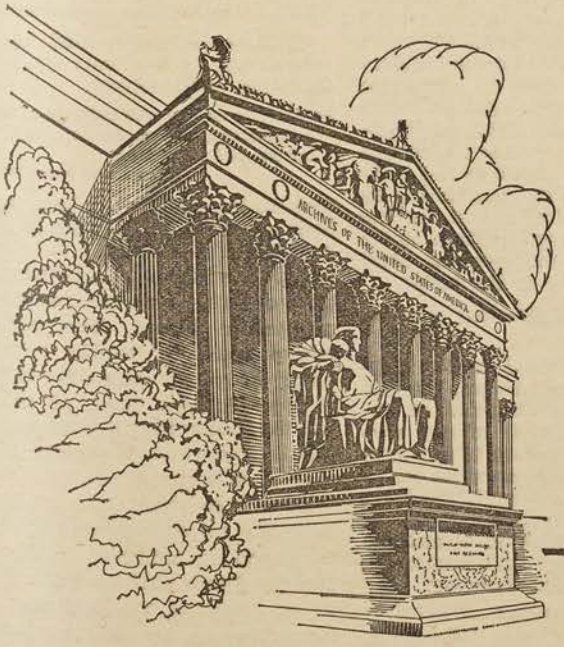
PART II

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares)

(Dept. Circ. 888, 3d Rev., and Memorandum of Instructions.)



Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 330—REGULATIONS GOVERNING PAYMENT UNDER SPECIAL ENDORSEMENT OF U.S. SAVINGS BONDS AND U.S. SAVINGS NOTES (FREEDOM SHARES)

The regulations set forth in Treasury Department Circular No. 888, Second Revision, dated April 7, 1964 (31 CFR, Part 330), have been further revised and amended as shown below. These changes were effected under authority of section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c). This revision was effected pursuant to 5 U.S.C. 301. Notice and public procedures thereon are unnecessary as public property and contracts are involved.

Dated: December 2, 1968.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

Treasury Department Circular No. 888, Second Revision, dated April 7, 1964 (31 CFR, Part 330), entitled: "Regulations Governing the Special Endorsement of United States Savings Bonds of Any Series and the Payment of Matured Series F, G, J, and K Bonds by Eligible Paying Agents," is hereby retitled and otherwise amended to include U.S. Savings Notes (Freedom Shares), and issued as a Third Revision, as follows:

Sec.

330.0 Purpose of regulations.
330.1 Agents eligible to process bonds and notes.
330.2 Securities eligible for processing.
330.3 Guaranty given to the United States.
330.4 Evidence of owner's authorization to agent.
330.5 Endorsement of securities.
330.6 Securities in coownership form.
330.7 Payment or exchange.
330.8 Functions of Federal Reserve Banks.
330.9 Modification of other circulars.
330.10 Other circulars generally applicable.
330.11 Supplements, amendments or revisions.

AUTHORITY: The provisions of this Part 330 issued under secs. 330.0 to 330.11 issued under authority of sec. 22 of the Second Liberty Bond Act, as amended, 49 Stat. 21, as amended; 31 U.S.C. 757c.

§ 330.0 Purpose of regulations.

These regulations in this Part prescribe a procedure whereby qualified paying agents may specially endorse U.S. Savings Bonds of certain classes, and U.S. Savings Notes (Freedom Shares), with or without the owners' signatures to the requests for payment, and pay the bonds and notes so endorsed, or forward them to the Federal Reserve Bank or Branch servicing their accounts for payment or for any authorized exchange. § 330.2 describes the eligibility of various classes of bonds for processing under the procedure provided in this circular, and § 330.7 sets out which of these classes may be paid by such agents and which should be forwarded to a Federal Reserve Bank or Branch. Under no circumstances shall the provisions of this part be used to give effect to a transfer, hypothecation, or pledge of a bond or note, or to permit payment to any person other than the owner or coowner. Violation of these prohibitions will be cause for the withdrawal of an agent's privilege to process any bonds and notes under this part.

§ 330.1 Agents eligible to process bonds and notes.

(a) *New applications.* Any institution qualified as a paying agent of U.S. Savings Bonds and U.S. Savings Notes under the provisions of Department Circular No. 750, as revised, may establish its eligibility to employ the procedure authorized by this circular upon application on Treasury Department Form PD 3902 to the Federal Reserve Bank of the District in which it is located. This form provides a certification that by duly executed resolution of its governing board or committee the institution has been authorized to apply for the privilege of processing and paying bonds and notes in accordance with the provisions and conditions of Department Circular No. 888, including all supplements, amendments, and revisions thereof, and any instructions issued in connection therewith. If the application is approved, the Federal Reserve Bank will so notify the institution on Treasury Department Form PD 3903. The Secretary of the Treasury reserves the right to withdraw from any institution at any time the authority granted thereto under the regulations in this part.

(b) *Agents previously qualified.* Any financial institution qualified and acting under any previous revision of this part will not be required to qualify separately to process savings notes. If such institution affixes its special endorsement on a savings note, it shall be presumed that its governing board or committee had undertaken appropriate action to authorize extension to savings notes of the terms and conditions of its previous qualification to process savings bonds under this part. The granting of credit by the Federal Reserve Bank or Branch, acting as fiscal agent of the United States, for the redemption of any such savings notes pursuant to special endorsement shall constitute qualification of the agent.

§ 330.2 Securities eligible for processing.

The procedure provided in the regulations in this part may be employed in connection with the redemption or exchange (where authorized) of any savings bond, or the redemption of any savings note, upon the request of its registered owner or either coowner. The term "owner" is defined to include individuals, and where such registration is authorized, incorporated and unincorporated bodies, executors, administrators, and other fiduciaries named on a bond or note. This procedure does not apply, however, to cases where payment (or exchange in the case of bonds) is requested by a parent in behalf of a minor named on a security as owner. Also, it does not apply to requests made by surviving beneficiaries, or to any cases requiring a death certificate or other documentary evidence.

§ 330.3 Guaranty given to the United States.

A paying agent, by the act of paying or presenting to the Federal Reserve Bank or Branch for payment a bond or note, or for exchange a bond, on which it has affixed the special endorsement, shall be deemed thereby to have (a) unconditionally guaranteed to the United States the validity of the transaction, including the identification of the owner and the disposition of the proceeds or the new bonds, as the case may be, in accordance with his instructions, (b) assumed complete and unconditional liability to the United States for any loss which may be incurred by the United States as a result of the transaction, and (c) unconditionally agreed to make prompt reimbursement for the amount of any such loss upon request of the Department of the Treasury.

§ 330.4 Evidence of owner's authorization to agent.

By the act of paying or presenting to the Federal Reserve Bank or Branch a security on which it has affixed the special endorsement described in § 330.5, the paying agent represents to the United States that it has obtained adequate instructions from the owner with respect to payment of the bond or note, and disposition of its proceeds, or exchange of the bond, as the case may be. To support this representation, agents should maintain such records as may be necessary to establish the receipt of such instructions, as well as records establishing compliance therewith.

§ 330.5 Endorsement of securities.

Each security processed under these regulations in this part shall bear the following endorsement:

Request by owner and validity of transaction guaranteed in accordance with T.D. Circular No. 888, as revised.
(Name and location of agent)

This endorsement must be placed on the back of the bond or note in the space provided for the owner to request payment. (See § 330.6 for additional instructions covering securities inscribed in coownership form.) The endorsement stamp must be legibly impressed in black or other dark-colored ink. The Federal Reserve Bank of the District will furnish rubber stamps for impressing the above endorsement or, in lieu thereof, will approve designs for suitable stamps to be obtained by paying agents. Requests for endorsement stamps to be furnished or approved by the Federal Reserve Bank shall be made in writing by an officer of the institution. Stamps heretofore in use may continue to be utilized.

§ 330.6 Securities in coownership form.

In addition to the endorsement prescribed in § 330.5, the paying agent shall, in the case of bonds and notes registered in coownership form, indicate which coowner requested payment or exchange. This should be done by encircling in black or other dark-colored ink the name of such coowner (or both coowners, if a joint request for payment or exchange is made) as it appears in the inscription on the face of the securities.

§ 330.7 Payment or exchange.

(a) *By paying agents*—(1) *Payment of Series A–E bonds, inclusive, and savings notes for cash.* Bonds of Series A to E, inclusive, and savings notes, on which it has affixed the special endorsement may be paid by a qualified paying agent pursuant to the authority and subject, in all other respects, to the provisions and conditions of Department Circular No. 750, as revised, and the instructions issued pursuant thereto. Bonds and notes so paid will be combined with other Series A to E bonds and notes paid under that circular and forwarded to the Federal Reserve Bank or Branch servicing the agent's account.

(2) *Payment of matured Series F, G, J, and K bonds.* Matured savings bonds of Series F, G, J, and K on which it has affixed the special endorsement may be paid by a qualified paying agent, provided they are of a class eligible for this procedure under § 330.2. Such payments, fees for which will not be paid to the agents, shall be made in accordance with the following provisions:

(i) A Series F or J bond shall be paid at its face value.

(ii) A Series G or K bond shall be paid at its face value, together with the final interest due thereon, as shown below:

Authorized denominations	Amount payable (face value plus final interest)	
	Series G	Series K
$100 (Series G only)	$101.25	
$500	506.25	$506.90
$1,000	1,012.50	1,013.80
$5,000	5,062.50	5,069.00
$10,000	10,125.00	10,138.00
$100,000 (Series K only)		101,380.00

(iii) Each bond shall bear on its face, in the upper right portion, a payment stamp setting forth the word "PAID" and the amount of the payment (including the final interest on Series G and K bonds), the date of payment (month, day, year), and the name and location of the paying agent including the ABA transit number or other identifying code approved or assigned by the Federal Reserve Bank of the District (the payment stamp prescribed for use under Department Circular No. 750, as revised, may be used).

(iv) Paying agents shall be subject to such other instructions governing these payments as may be issued by the Federal Reserve Bank of the District.

Immediate settlement, subject to adjustment, will be made with the paying agent by the Federal Reserve Bank or Branch servicing its account for the total amount of the paid bonds submitted at any one time.

(3) *Payment of Series E and J bonds on redemption-exchange for Series H bonds.* All outstanding Series E bonds, and Series J bonds received not later than 6 months from the month of maturity, presented to a paying agent for redemption-exchange under the provisions of Department Circular No. 1036, as amended, on which it has affixed the special endorsement, may be paid pursuant to the authority and subject, in all other respects, to the provisions and conditions of Department Circular No. 750, as revised, and the instructions issued pursuant thereto.

(b) *By Federal Reserve Banks*—(1) *General.* All securities forwarded by an agent to a Federal Reserve Bank or Branch for payment or exchange under this part must be accompanied by appropriate instructions governing the transaction and the disposition of the redemption checks or the new bonds, as the case may be. The bonds and notes must be kept separate from any others the agent has paid, and they must be presented in accordance with such instructions as may be issued by the Federal Reserve Bank of the District.

(2) *Payment.* The Federal Reserve Bank or Branch servicing an agent's account shall pay securities which it receives from such agent on which the latter has affixed its special endorsement under the provisions and conditions of this part. Such securities are (i) those not payable under paragraph (a) of this section, or (ii) those the agent does not elect to pay, although eligible for payment thereunder.

(3) *Exchange.* The Federal Reserve Bank or Branch shall pay Series E and J bonds presented for redemption-exchange which an agent elects to process, but not to pay, under paragraph (a) (3) of this section, as well as any savings bonds submitted for exchange, in whole or in part, pursuant to an authorized exchange offering and processed by special endorsement under this part.

§ 330.8 Functions of Federal Reserve Banks.

The Federal Reserve Banks, as fiscal agents of the United States, are authorized and directed to perform such duties, and prepare and issue such instructions, as may be necessary for the fulfillment of the purpose and requirements of this part. The Federal Reserve Banks may utilize any or all of their branches in the performance of these duties.

§ 330.9 Modification of other circulars.

The provisions of these regulations in this part shall be considered as amendatory of, and supplementary to, Department Circulars Nos. 530, 653, 654, 750, 751, 885, 905, and 906, and any revisions thereof, and those circulars are hereby modified where necessary to accord with the provisions hereof.

§ 330.10 Other circulars generally applicable.

Except as provided in these regulations in this part, the circulars referred to in the preceding section will continue to be generally applicable.

§ 330.11 Supplements, amendments or revisions.

The Secretary of the Treasury may at any time, or from time to time, supplement, amend or revise the terms of these regulations in this part.

MEMORANDUM OF INSTRUCTIONS ISSUED IN CONJUNCTION WITH DEPARTMENT CIRCULAR NO. 888, THIRD REVISION

FISCAL SERVICE, BUREAU OF THE PUBLIC DEBT

The Department of the Treasury,
Office of the Secretary,
Washington, D.C.

DECEMBER 2, 1968.

1. *General.*—(a) *Purpose.* This memorandum has been prepared for the guidance of paying agents qualified under Department Circular No. 888, Third Revision, the regulations governing the payment by special endorsement of U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares). It both explains and supplements the circular, and acquaints paying agents with the objectives of the special endorsement procedure.

(b) *Liability assumed by agents using special endorsement.* An eligible agent which pays or processes securities by special endorsement, undertakes thereby, under section 330.3 of Department Circular No. 888, Third Revision, to guarantee the owner's request and the validity of the transaction.

(c) *Options available to agents.* Each paying agent authorized under Department Circular No. 750, as revised, to redeem savings bonds and notes has the option of deciding whether or not to apply for qualification to use the special endorsement procedure, and, even after being qualified, whether or not to exercise its authority in any given case.

2. *Scope of regulations.* Department Circular No. 888, Third Revision, prescribes a special endorsement which a qualified paying agent may place upon any series of savings bonds and upon notes, except as otherwise provided in paragraph 4 hereof, so that regardless of whether or not the request for payment is signed by the owner, the paying agent may pay them or present them to a Federal Reserve Bank for payment or exchange.

3. *Meaning of terms.* For the purpose of this memorandum (unless otherwise indicated either specifically or by context) the terms:

(i) "Bond(s)" and "note(s)" mean U.S. Savings Bond of any series, and U.S. Savings Note (Freedom Share), respectively, referred to collectively as "securities", which an "eligible agent" is permitted to "specially endorse".

(ii) "Eligible agent(s)" or "agent(s)" means any paying agent of savings bonds which, upon application, has been duly qualified by the Federal Reserve Bank of its district to process savings bonds and notes by special endorsement under the provisions of Department Circular No. 888, as revised.

(iii) "Special endorsement" means the endorsement prescribed in § 330.5 of Department Circular No. 888, Third Revision.

(iv) "Specially endorse" means the affixing by an eligible agent of the special endorsement to bonds which are to be paid or exchanged, or to notes which are to be paid.

(v) "Exchange" refers to the Series H bond exchange offering.

(vi) "Federal Reserve Bank" refers to the Federal Reserve Bank or Branch servicing the agent's account.

4. *Limitations or qualifications on use of special endorsements.* An eligible agent may, at its discretion, specially endorse a bond which the owner has requested the agent to

pay or exchange or a note for which payment is requested, subject to the following limitations or qualifications:

(i) A security may not be specially endorsed if documentary evidence is required in support of its request for payment. (Subparts O and P of Department Circular No. 530, current revision, provide information as to whether documentary evidence is required to support the request for payment of bonds registered in the name of a fiduciary, private organization (corporation, association, partnership, etc.), or a governmental agency, unit or officer.)

(ii) Documentary evidence is not required where the owner's name has been changed by reason of marriage.

(iii) No bond or note may be specially endorsed upon a parent's request in behalf of a minor child named on the security as the owner.

(iv) A bond inscribed in the name of a bank (in its fiduciary capacity, e.g., trustee, guardian, etc.) which has changed its name, status or designation by merger, consolidation or otherwise may be paid upon verification that approved evidence is on file with the Treasury, and upon advice that such bond is eligible for payment by special endorsement. Such verification and advice will be furnished upon request by the Federal Reserve Bank of the district.

(v) Notwithstanding the provisions of Department Circular No. 888, Third Revision, a bond which requires documentary evidence to support payment may be specially endorsed and presented for exchange without such evidence if the bond is to be exchanged in the full amount for another security with the identical registration.

5. *Instructions from owners.*—(a) *Receipt.* The Department of the Treasury does not prescribe the form or type of instruction, if any, which an agent obtains from each owner in order to process securities belonging to him by special endorsement. As the agent's liability to the United States for any loss resulting from an erroneous payment would be strictly based on its endorsement, the securing of adequate instructions would be a matter entirely between the agent and its customer. For its protection, agents are cautioned about accepting any authorization by an owner or coowner with respect to a security in beneficiary or coownership form which provides for future execution, rather than for immediate payment or exchange, as such authorization generally expires upon the death of the person giving it.

(b) *Retention of evidence.* Where agents elect to make notations on the back of a security to serve as the record of a transaction in which the special endorsement procedure is used the Department will undertake to produce, upon request, such security, or a photocopy thereof, but it will not assume responsibility for the adequacy of any such notations, the legibility of any photocopy, or for failure to produce the security or photocopy in any particular case where the Department's records have become lost, stolen, or destroyed.

6. *Special endorsement of securities.*—(a) *Special endorsement stamp.* The Federal Reserve Bank will supply, on the agent's requisition, a limited number of special endorsement stamps described in Department Circular No. 888, Third Revision. Eligible agents may obtain their own endorsement stamps at their expense, provided that (i) the size of the stamp does not exceed a space bounded by 1¾ inches in the vertical dimension and 3 inches horizontally, and (ii) the wording of the stamp is exactly as prescribed, plus any code number assigned to the agent by the Federal Reserve Bank. Stamps obtained by an agent may include space for the initials or signature of the employee approving the transaction, the date of the transaction, etc. Such stamps must not be obtained prior to notification of qualification.

(b) *Placement of stamp.* Each endorsement impression must be legibly made with black or other dark-colored ink, and placed on the back of the security in the general area provided for signing the request for payment. (See paragraph 5(b) of this memorandum for additional notations which an agent may make on the back of a security.)

7. *Designation of coowner requesting transaction.* Whenever a specially endorsed security registered in coownership form has not been signed by the coowner requesting its payment or exchange, his name (or the names of both coowners, if a joint request is made) in the inscription on the face of the security must be circled in black or other dark-colored ink. This practice must be followed whether the agent pays the security or forwards it to the Federal Reserve Bank for payment or for exchange.

8. *Payment of Series A–E bonds and notes by paying agents.* Any bonds of Series A, B, C, D, and E and notes which are specially endorsed may be paid by an agent if the securities are otherwise payable under the authority and provisions of Department Circular No. 750, Second Revision, and the instructions issued in conjunction therewith. However, because of problems relating to tax withholding, securities held or received by the agent for account of a nonresident alien individual, or a nonresident foreign corporation, association or partnership, may not be paid by the agent, but must be forwarded to the Federal Reserve Bank for payment. Each specially endorsed Series A–E bond or savings note paid by an agent must have a payment stamp impressed on the face of the security and show therein the date and amount paid. The paid securities may be forwarded to the Federal Reserve Bank with other paid bonds of Series A–E and notes, as prescribed in Department Circular No. 750, Second Revision, and the instructions issued in conjunction therewith.

9. *Payment of Series F and G and matured J and K bonds by paying agents.*—(a) *General.* Any bonds of Series F or G, which are all matured, and any matured bonds of Series J or K, may be paid by special endorsement by a qualified agent under the authority and provisions of Department Circular No. 888, Third Revision, and these instructions.

(b) *Limitation on payment authority.* (1) Alteration, irregularity, mutilation, or other defect: An agent may not pay any security bearing a material alteration, irregularity, mutilation, or other defect. There may be instances, however, in which an agent will be willing to endorse and pay bonds which have minor errors or defects, assuming full responsibility therefor, because of the reliability and integrity of the customer, and his explanation of the situation.

(2) Bonds owned by nonresident aliens: An eligible agent may not pay bonds described in this paragraph which are known to be owned by a nonresident alien individual or a nonresident foreign corporation, association, or partnership. Such bonds must be forwarded to the Federal Reserve Bank for payment.

(c) *Amount payable—Series F and J.* The amount payable on any matured bond of Series F or Series J is its denominational or face value.

(d) *Amount Payable—Series G and K.* Any matured Series G or Series K bond is payable at its face value, plus the amount of the final 6 months' interest due for each denomination. The total amount payable for each denomination is set forth in § 330.7(a) (2) (ii) of the circular.

(e) *Recording payment data on bonds.* The amount paid (including final interest in the case of matured Series G and K bonds), date of payment, and the name, location and assigned code of the paying agent must be recorded on each specially endorsed bond. This requirement is designed to: (i) Facilitate accounting and settlement for paid bonds, (ii) provide permanent supporting evidence of the payment, and (iii) prevent a second presentation for payment of bonds which had become lost or stolen. The payment stamp prescribed for use in connection with Series A–E bonds may be used for this purpose, the impression thereof to be placed upon the face of the bond in the upper right portion thereof. Black or other dark-colored ink must be used in making stamp impressions and recording the amounts of payment. The impression and notations must be legible and free from smears and blurs. Care must be taken to prevent defacing the bond serial number, the name and address of the owner, co-owners, or beneficiary, the issue date, and the issuing agent's validating stamp.

(f) *Forwarding paid bonds to Federal Reserve Bank.* Series F and G and matured J and K bonds paid by special endorsement under Circular No. 888, Third Revision, must be grouped into batches for transmittal to the Federal Reserve Bank or Branch servicing the agent's account. Each batch must contain only bonds of the same letter series paid in the same calendar month and year and have not more than 200 bonds or $900,000 (redemption value) in amount. A Form PD 2639 must be prepared as the control and transmittal document for each batch. The agent must complete the form to show: (i) The type of bonds ("Paper"); (ii) the letter series; (iii) the date of transmittal; (iv) the month and year the bonds were paid; (v) the number of bonds in the batch; (vi) the amount paid on the bonds; and (vii) the transaction ("Matured F, G, J, or K"). Shipments may be made each day or less frequently, provided that all paid bonds on hand on the last business day of a month must be forwarded to the Federal Reserve Bank not later than the following business day. Specially endorsed bonds sent to a Federal Reserve Bank for payment or exchange must not be intermingled in any batch containing bonds paid by an agent.

(g) *Manner of shipment.* Paid bonds of Series F, G, J, and K, as herein described, may be sent to the Federal Reserve Bank in the same manner in which the agent transmits paid Series A–E bonds. The provisions of the Government Losses in Shipment Act, as amended, and related regulations, will be applicable to these shipments.

(h) *Claims for loss, theft, destruction, or mutilation of paid bonds.* The eligible agent should promptly notify the Federal Reserve Bank of any loss, theft, destruction, or mutilation of bonds of Series F, G, J, or K which it has paid. To obtain relief for any such bonds prior to receipt by the Federal Reserve Bank, the agent must (i) furnish by letter series, the serial number (including prefix and suffix letters), issue date, amount paid and, if available, the registration of each bond; (ii) certify that the prescribed endorsement and payment stamps were duly impressed; and (iii) provide satisfactory evidence of the loss, theft, destruction, or mutilation. The Treasury does not prescribe the form in which records necessary to support requests for relief should be maintained. Agents are authorized to microfilm paid bonds and such film records may be projected upon a screen, but no prints, enlargements or other reproductions may be made except by official permission, which may be obtained from the Federal Reserve Bank. To support each claim, affidavits by employees and statements by officers of the agent as to the circumstances of the preparation and dispatch of bonds, and any known facts as to the loss, theft, destruction, or mutilation must ordinarily be furnished.

(i) *Settlement for paid bonds.* Immediate settlement by credit will be allowed by the Federal Reserve Bank for the total amount of paid bonds received from a paying agent, subject to adjustment following audit and examination by the Bureau of the Public Debt. The credit will be made in the agent's reserve account if it is a member of the Federal Reserve System. If the agent is not a member, credit may be made in the clearing account of the agent, in the reserve or clearing account of a correspondent of the agent, or, if such an account is not available for credit, by check drawn by the Federal Reserve Bank on the Treasurer of the United States.

(j) *Adjustments for paid bonds.* Discrepancies discovered by the Bureau of the Public Debt in the examination and audit of paid bonds will be referred to the Federal Reserve Bank for adjustment, which will be made by (i) charging the reserve or clearing account which an agent has designated for crediting amounts due for paid bonds or (ii) in those cases where settlement was made by check, either by reducing the amount of the check to be issued in connection with a subsequent transmittal or by requiring the agent to reimburse the Federal Reserve Bank for the amount of the adjustment. The Department of the Treasury will communicate with the agent in the event of an improper payment.

10. *Payment of eligible Series E, F, and J bonds by paying agent in exchange for Series H bonds.* Any bonds of Series E or J which are eligible for redemption by a paying agent in exchange for Series H bonds, and are specially endorsed as prescribed in Department Circular No. 888, Third Revision, may be paid by an agent. The authority of the paying agents to effect redemption-exchanges, as well as complete instructions regarding the conduct of the transactions and the processing of the bonds received for exchange, are contained in Department Circular No. 750, Second Revision, and in the instructions issued in conjunction therewith.

11. *Payment or exchange of bonds of all series and notes by Federal Reserve Banks.*—

(a) *General.* All specially endorsed bonds or notes which an agent does not have authority to pay for cash or to exchange for Series H bonds must be forwarded to the Federal Reserve Bank.

(b) *Payment of bonds or notes.* All bonds and notes specially endorsed by an eligible agent which are to be submitted to the Federal Reserve Bank for payment must be forwarded with appropriate instructions regarding disposition of the check to be issued in payment of the securities. Such securities must be kept separate from paid bonds and notes which the agent submits for settlement by credit. Payment will be made by check drawn on the Treasurer of the United States.

12. *Inquiries.* All inquiries concerning Department Circular No. 888, Third Revision, or this memorandum, may be directed to the Federal Reserve Bank of the district in which the agent is located.

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