

FEDERAL REGISTER

VOLUME 34 • NUMBER 8

Saturday, January 11, 1969 • Washington, D.C.

Pages 421-490

Agencies in this issue—

Agricultural Stabilization and
Conservation Service
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commerce Department
Consumer and Marketing Service
Customs Bureau
Defense Department
Delaware River Basin Commission
Federal Aviation Administration
Federal Communications Commission
Federal Power Commission
Food and Drug Administration
General Services Administration
Interior Department
Internal Revenue Service
Interstate Commerce Commission
Justice Department
Land Management Bureau
National Park Service
Renegotiation Board
Small Business Administration
Social Security Administration

Detailed list of Contents appears inside.



MICROFILM EDITION FEDERAL REGISTER 35mm MICROFILM

Complete Set 1936-67, 167 Rolls \$1,162

Vol.	Year	Price	Vol.	Year	Price	Vol.	Year	Price
1	1936	\$8	12	1947	\$26	23	1958	\$36
2	1937	10	13	1948	27	24	1959	40
3	1938	9	14	1949	22	25	1960	49
4	1939	14	15	1950	26	26	1961	46
5	1940	15	16	1951	43	27	1962	50
6	1941	20	17	1952	35	28	1963	49
7	1942	35	18	1953	32	29	1964	57
8	1943	52	19	1954	39	30	1965	58
9	1944	42	20	1955	36	31	1966	61
10	1945	43	21	1956	38	32	1967	64
11	1946	42	22	1957	38			

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408



Area Code 202

Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

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

Contents

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations	
Puerto Rico; allotment of direct-consumption of mainland sugar quota; 1969.....	425

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Rules and Regulations	
Inclusive tour charters to foreign tour operators by supplemental air carriers (3 documents)....	431, 432
Notices	
Group inclusive tour fares to Hawaii; notice of prehearing conference.....	486

CIVIL SERVICE COMMISSION

Notices	
Pharmacist; adjustment of minimum rate and rate range.....	486

COAST GUARD

Rules and Regulations	
Miscellaneous amendments to chapter.....	438

COMMERCE DEPARTMENT

Proposed Rule Making	
Procedures for development of voluntary product standards; extension of time for filing comments.....	483

CONSUMER AND MARKETING SERVICE

Rules and Regulations	
Handling limitations:	
Lemons grown in California and Arizona.....	428
Navel oranges grown in Arizona and designated part of California.....	428
Tangerines grown in Florida; shipment limitations.....	428
Proposed Rule Making	
Milk in Corpus Christi, Texas marketing area; recommended decision.....	466

CUSTOMS BUREAU

Rules and Regulations	
Appraisal; examination of merchandise.....	434

DEFENSE DEPARTMENT

Rules and Regulations	
Notification of eligibility for retired pay for members of reserve components.....	436

DELAWARE RIVER BASIN COMMISSION

Notices	
Comprehensive plan; notice of public hearing.....	486

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations	
Additional control area and other domestic reporting points; alteration and revocation.....	429
Alterations:	
Jet route.....	431
Restricted area.....	430
Transition area (2 documents)....	429
Designations:	
Restricted area.....	430
Transition area.....	430
Restricted area; designation of periods of use.....	430
Proposed Rule Making	
Noise standards; aircraft type certification.....	453
Protective smoke hoods for emergency use by passengers and crewmembers.....	465

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rule Making	
Standard broadcast stations operated by remote control; transmission of telemetry signals directly related to technical operation of the broadcast station.....	483
Notices	
Orange County Broadcasting Co.; application for permit for new television station.....	487

FEDERAL POWER COMMISSION

Notices	
<i>Hearings, etc.:</i>	
Chandeleur Pipe Line Co.....	487
Iowa Power and Light Co.....	487
Manufacturers Light and Heat Co., et al.....	487

FOOD AND DRUG ADMINISTRATION

Rules and Regulations	
Provisional regulations regarding color additives; postponement of closing dates of listing.....	435
Notices	
Gulf Oil Corp.; filing of petition regarding pesticide chemical....	486

GENERAL SERVICES ADMINISTRATION

Rules and Regulations	
Policy regarding procurement of lowest cost items from GSA supply sources.....	439
Time delivery clauses and miscellaneous amendments.....	436

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration; Social Security Administration.

INTERIOR DEPARTMENT

<i>See also</i> Land Management Bureau; National Park Service.	
Rules and Regulations	
Establishment of chapter.....	439

INTERNAL REVENUE SERVICE

Proposed Rule Making	
Liquor dealers; distilled spirits plants.....	442
Notices	
Lovisi, Aldo M.; notice of granting of relief.....	484

INTERSTATE COMMERCE COMMISSION

Rules and Regulations	
Establishment of motor carrier board.....	441
Notices	
Motor carrier temporary applications.....	488
Organization minutes; organization of division and boards and assignment of work.....	488

JUSTICE DEPARTMENT

Rules and Regulations	
Witness fees and allowances in Alaska.....	436

LAND MANAGEMENT BUREAU

Notices	
Area managers, Burley District, Idaho; redelegation of authority.....	484
New Mexico; notice of land classification (2 documents).....	484, 485
California; filing of protraction diagram; correction.....	484

NATIONAL PARK SERVICE

Notices	
Authority delegations:	
Administrative Assistant, North Cascades National Park.....	485
Administrative Assistant, Redwood National Park.....	486

(Continued on next page)

RENEGOTIATION BOARD

Rules and Regulations
 Principles and factors in determining excessive profits; capital employed 436

SMALL BUSINESS ADMINISTRATION

Notices
 California; declaration of disaster area 488

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations
 Organization and functions..... 435

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration.

TREASURY DEPARTMENT

See Customs Bureau; Internal Revenue Service.

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

7 CFR

815..... 425
 905..... 428
 907..... 428
 910..... 428
 PROPOSED RULES:
 1130..... 466

14 CFR

71 (4 documents)..... 429, 430
 73 (3 documents)..... 430
 75..... 431
 208..... 431
 295..... 432
 378..... 432
 PROPOSED RULES:
 21..... 453
 25..... 465
 36..... 453
 121..... 465
 123..... 465

15 CFR

PROPOSED RULES:
 10..... 483

19 CFR

14..... 434

20 CFR

422..... 435

21 CFR

8..... 435

26 CFR

PROPOSED RULES:
 194..... 442
 201..... 442

28 CFR

21..... 436

32 CFR

86..... 436
 1460..... 436

41 CFR

5A-1..... 436
 5A-2..... 438
 5A-72..... 438
 5A-73..... 438
 12B-7..... 438
 12B-16..... 438
 101-26..... 439
 114-1..... 439
 114-3..... 440

47 CFR

PROPOSED RULES:
 73..... 483

49 CFR

1000..... 441
 1100..... 441
 1131..... 441

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 815.10]

PART 815—ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

1969

Basis and purpose. This allotment order is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 926 as amended), hereinafter called the "Act", for the purpose of allotting the portion of the sugar quota for Puerto Rico for the calendar year 1969 which may be filled by direct-consumption sugar among persons who market such sugar for consumption in the continental United States.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within probable mainland and local quotas (R 11). The proceeding to which this order relates was instituted for the purpose of allotting the direct-consumption portion of the mainland quota to prevent disorderly marketing and to afford each interested person an equitable opportunity to market direct-consumption sugar in the continental United States. The allotments made effective by this order are small in relation to the quantities of sugar that could be produced for marketing and delay in the issuance of the order might result in some persons marketing more than their fair share of the direct-consumption portion of the quota. Therefore, it is imperative that this order become effective on January 1, 1969, in order to fully effectuate the purposes of section 205(a) of the Act. Accordingly, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impracticable and contrary to the public interest and, consequently, this order shall be effective on January 1, 1969.

Preliminary statement. Under the provisions of section 205(a) of the Act, the Secretary is required to allot a quota or proration thereof whenever he finds that

allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for the area. Section 205(a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.), a preliminary finding was made that allotment of the direct-consumption portion of the quota is necessary and a notice was published on October 8, 1968 (33 P.R. 15027), of a public hearing to be held at Santurce, P.R., in New Conference Room, Seventh Floor, Segarra Building, Stop 20 on October 31, 1968, at 9:30 a.m., e.s.t., for the purpose of receiving evidence to enable the Secretary to make a fair, efficient and equitable distribution of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1969. The hearing was held at the time and place specified in the notice.

In arriving at the findings, conclusions, and regulatory provisions contained herein, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining to the allotment of the direct-consumption portion of the mainland quota.

Basis for findings and conclusions. Section 205(a) of the Act reads in pertinent part as follows:

*** Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such persons to market or import that portion of such quota or proration thereof allotted to him. ***

The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within the probable quotas. Thus, to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market sugar within the quota as required by section 205(a) of the Act, allotment of the direct-consumption portion of the mainland

sugar quota for Puerto Rico for the calendar year 1969 is found to be necessary (R-12).

While all three factors specified in the provisions of section 205(a) of the Act quoted above have been considered, only the "past marketings" and "ability to market" factors have been given percentile weightings in the formula on which the allotment of the direct-consumption portion of the mainland quota for Puerto Rico is based. Testimony indicates that allottees accounting for over 90 percent of the direct-consumption sugar brought into the continental United States each year do not process sugar from sugarcane and, accordingly, no weight should be given to the factor "processings from proportionate shares" (R-13).

The Government witness proposed that the factor "past marketings" be measured for each processor and refiner by the average annual quantity of direct-consumption sugar which he marketed in the continental United States within the mainland quotas for Puerto Rico during the 5 years, 1964 through 1968, inclusive expressed as a percentage of the sum of such quantities for all processors and refiners. The witness stated that the use of the quantities marketed in the most recent 5-year period will reflect market conditions similar to those which would be expected to occur in the marketing of direct-consumption sugar in the mainland in 1969, and furthermore, that a 5-year average of such marketings tends to minimize short-run influences affecting data for a single year and adds stability to the "past marketings" factor (R-13, 14).

The Government witness proposed that the factor "ability to market" be measured by the largest quantity of direct-consumption sugar marketed in the mainland by each refiner and processor in any one of the past 5 years, 1964 through 1968, expressed as a percentage of the sum of such quantities for all refiners and processors. The witness stated that the actual demonstrated ability of each allottee as measured by the largest quantity of sugar marketed in any one of the last 5 years is believed to be the best measure of processor's and refiner's relative ability to market direct-consumption sugar in the mainland in 1969, and that the use of a more remote period would not be as indicative of current ability to market (R-14, 15).

In determining allotments of the direct-consumption portion of the mainland quota for the calendar year 1969, the Government witness proposed that the factors "past marketings" and "ability to market," measured as proposed above, be weighted equally and such weighted percentages shall be applied to the quantity to be allotted in determining individual allotments (R-15).

The order allotting the direct-consumption portion of the mainland quota for 1968 established a liquid sugar reserve of 30 short tons, raw value, for other than named allottees. The record of the hearing held October 31, 1968, reveals that shipment of liquid sugar from other than named allottees totaled 33 tons in 1965, 10 tons in 1966, 13 tons in 1967, and 15 tons to date in 1968. Accordingly, the Government witness proposed that a liquid sugar reserve in an amount not to exceed 25 short tons, raw value, be established to permit the marketing of liquid sugar in the continental United States in 1969 by other than named allottees. Provision is therefore made for determining allotments by applying the weighted percentage factors for each allottee to the direct-consumption portion of the mainland quota less such liquid sugar reserve.

At the hearing the witness representing three of the named allottees supported and endorsed the Government's proposal.

At the hearing a witness representing a mainland sugar importer who distributes refined sugar in the continental United States for one of the Puerto Rican allottees of the direct-consumption portion of the mainland sugar quota for Puerto Rico testified that one of the allottees of the 1967 direct-consumption quota failed to fill its allotment by 1,138 short tons, raw value, and did not notify the Department so that such a shortfall could be released to other allottees able to supply additional sugar. In order that all such shortfalls in allotments may be reallocated in future years, the witness proposed that allottees be required to report by wire to the USDA not later than December 15th of each year the amount by which they expect to be unable to fill their respective allotments. The witness also proposed that the order provide for a penalty whereby an allottee's subsequent years allotment would be reduced by the amount by which the allottee failed to fill his allotment unless the allottee gave timely notice to the Department so that the shortfall could be reallocated to other allottees. One allottee concurred with the proposal made by the sugar importer and none of the other allottees voiced any objection.

Prior orders have required that all allottees of direct-consumption sugar provide the Department by October 1, of each year the following information concerning that year's allotment; their ability to fill their respective allotment, their ability to market additional sugar and a release to other allottees of any shortfall in allotment which they cannot fill. This order provides that each allottee shall so notify the Department by October 1, 1969, and again not later than December 1, 1969.

A finding is not warranted that a reduction be made in a processor's allotment to the extent he failed to fill his preceding years allotment and failed to give timely notice of his inability to fully utilize his allotment.

In accordance with the record of the hearing (R-19, 20) provision has been made in the findings and the order to revise allotments for the calendar year

1969, without further notice or hearing for purposes of (1) giving effect to the substitution of revised estimates or final data or both for estimates of the quantity of direct-consumption sugar imported into the continental United States by each allottee, (2) allotting any quantity of allotment to other allottees or to the residuary balance available for all persons when written notification of release of allotment becomes a part of the official records of Department, and (3) giving effect to any increase or decrease in the direct-consumption portion of the mainland quota. Also, as proposed in the record (R-23) the findings and order contain provisions relating to restrictions on marketing similar to those contained in the 1968 Puerto Rican allotment order since such provisions operated successfully in 1968 and no objection was made in the record to their inclusion.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) Based upon the rate of production of refiners and processors in Puerto Rico in 1968, the potential capacity of Puerto Rican processors and refiners to produce direct-consumption sugar during the calendar year 1969 is at least 342,000 short tons, and this quantity is proportionately far greater than the total quantity of such sugar which may be marketed within the mainland and local sugar quotas for Puerto Rico for the calendar year 1969.

(2) The allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar

year 1969 is necessary to prevent disorderly marketings of such sugar and to afford each interested person an equitable opportunity to market such sugar in the continental United States.

(3) Assignment of percentile weight to the "processing from proportionate shares" factor in the allotment formula would not result in fair, efficient, and equitable allotments.

(4) An allotment of 25 short tons, raw value, shall be established as a liquid sugar reserve to permit the marketing of liquid sugar in the continental United States by persons other than named allottees during the calendar year 1969.

(5) The "past marketings" factor shall be measured by each allottee's percentage of the average entries of direct-consumption sugar by all allottees into the continental United States during the years 1964 through 1968.

(6) The "ability to market" factor shall be measured for each allottee by expressing each allottee's largest entries of direct-consumption sugar into the United States during any one of the past 5 years, 1964 through 1968, as a percent of the sum of such entries for all allottees.

(7) The quantities of sugar and percentages referred to in paragraphs (5) and (6), above, based on data involving estimates for 1968 direct-consumption entries which shall be used to establish allotments pending availability and substitution of revised or final data for such estimates, are set forth in the following table:

Processor or refiner	Average annual marketings 1964-68		Highest annual marketings 1964-68	
	Short tons raw value	Percent of total	Short tons raw value	Percent of total
	(1)	(2)	(3)	(4)
Central Aguirre Sugar Co., a trust.....	6,373	4.1261	6,913	4.1479
Central Roig Refining Co.....	20,777	13.4518	22,508	13.4987
Central San Francisco.....	1,009	.6533	1,344	.8090
Puerto Rican American Sugar Refinery, Inc.....	102,245	66.1973	110,490	66.2641
Western Sugar Refining Co.....	24,051	15.5715	25,487	15.2853
Total.....	154,455	100.0000	160,742	100.0000

(8) Allotments totaling the direct-consumption portion of the Puerto Rican mainland quota for the calendar year 1969, less the liquid sugar reserve provided for in Finding (4), above, should be established by giving 50 percent weight to past marketings, measured as provided in Finding (5), above, and 50 percent weight to ability to market, measured as provided in Finding (6), above; and the sum of such weighted percentages for each allottee applied to the quantity to be allotted shall determine the allotment for each allottee.

(9) This order may be revised without further notice or hearing for the purpose of substituting revised estimates or final data or both for previous estimates of the Puerto Rican direct-consumption sugar entries by and on behalf of each allottee in 1968 when such revised data or final data or both become part of the official records of the Department.

(10) This order shall be revised without further notice or hearing to revise al-

lotments to give effect to any change in the direct-consumption portion of the quota for Puerto Rico for the calendar year 1969 on the same basis as is provided in these findings for establishing allotments.

(11) This order shall require each allottee to submit to the Department, in writing, an estimate of the maximum quantity of direct-consumption sugar he will be able to market during the quota year within any allotment, and a release for allocation to other allottees or to a residuary balance available for all persons the portion of any allotment which may be established for him in excess of such maximum quantity. Such notice shall be submitted to the Department by each allottee in the following form on October 1, 1969 and on December 1, 1969.

I, the undersigned allottee, estimate that I will be able to market not to exceed ----- short tons, commercial weight, equivalent to ----- short tons, raw value, of sugar dur-

ing the entire calendar year 1969, within any allotment of the direct-consumption portion of the 1969 mainland quota for Puerto Rico which may be established for me pursuant to S.R. 815.

I release for disposition under the provisions of S.R. 815 the portion of any allotment in excess of the above stated quantity of sugar and any increase in my allotment in excess of such stated amount which would result from either an increase in the direct-consumption portion of the Puerto Rican sugar quota or the allocation of any allotment, or a portion thereof, released by one or more other allottees, occurring in either case, from the date of this release until the end of the calendar year.

Allottees may revise a previous notice of the maximum quantity he may market during the quota year and a previous release of allotment deficit by submitting to the Department on the prescribed form a new notice of the maximum quantity he may market during the quota year and a new release of allotment deficit. A revised notice and release may be given effect only to the extent that the allotment of any other allottee will not be reduced solely thereby as provided in Finding (12).

(12) This order shall provide for reallocation without further notice or hearing of any allotment, or portion thereof, that may be released by an allottee as provided in Finding (11) whenever such released allotments or portions thereof become available.

In revising allotments for the purpose of giving effect to a quota increase or decrease, or to give effect to a release by an allottee, allotment deficits shall be determined and allocated without regard to any previous determination and proration of deficits and such deficits shall be allocated proportionately among other allottees to the extent they are able to utilize additional allotments, on the basis of allotments computed for such allottees without including allocation of any allotment deficits: *Provided*, That the allotment previously in effect for an allottee which includes a deficit proration shall not be reduced solely to give effect to a revised notice received from another allottee subsequent to such deficit proration and which notice increases the declared maximum quantity such other allottee is able to market. Such deficit allocations to any allottee shall be limited in accordance with the written statement of the maximum quantity he will market submitted as provided in Finding (11). In the event the total of allotment deficits released by allottees exceeds the total quantity which can be utilized by other allottees, the excess quantity shall be placed in a residual balance available for all persons.

(13) Official notice will be taken of (a) written notice to the Department by an allottee of the estimated maximum marketings of such allottee within an allotment and of the quantities of sugar released for reallocation when the notification becomes a part of the official records of the Department, (b) final data and revised estimates for 1968 calendar year marketings of sugar for direct-consumption in the mainland that become a part of the official records of the

Department, and (c) any regulation issued by the Secretary which changes the mainland sugar quota for Puerto Rico and the direct-consumption portion thereof established for 1969.

(14) Each allottee during the calendar year 1969 shall be restricted from bringing into the continental United States for consumption therein any direct-consumption sugar in excess of the smaller of the sum of his allotment established herein and the quantity brought in under any residual balance available for all persons or the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico and the quantity of sugar acquired from Puerto Rican processors by the allottee during such year for shipment to the mainland within the applicable mainland quota for Puerto Rico. All other persons shall be prohibited from bringing direct-consumption sugar into the continental United States during the calendar year 1969 for consumption therein except such sugar acquired in such year from an allottee within his allotment established herein or sugar brought in within the liquid sugar reserve established for other than named allottees or within any residual balance available for all persons. All persons collectively shall be prohibited from bringing into the continental United States any direct-consumption sugar other than crystalline sugar in excess of the quantity by which the direct-consumption portion of the mainland quota exceeds 126,033 short tons, raw value. Of that part of the direct-consumption portion of the mainland quota that may be filled by either liquid or crystalline sugar, 25 short tons, raw value, shall be reserved to cover shipments of liquid sugar by other than named allottees as provided in Finding (4).

(15) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest.

(16) Allotments established in the foregoing manner and the amounts set forth in the order provide a fair, efficient, and equitable distribution of the direct-consumption portion of the mainland quota, as required by section 205(a) of the Act.

(17) To assure that an allottee will not market a quantity of sugar in excess of his final 1969 allotment to be established later on the basis of final data; allotments established by this order should be limited to 90 percent of the direct-consumption portion of the mainland sugar quota for Puerto Rico pending the allotment of the quota based on final data.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with the findings and conclusions heretofore made: *It is hereby ordered:*

§ 815.10 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1969.

(a) *Allotments.* For the period January 1, 1969, until the date allotments of

the entire 1969 direct-consumption portion of the mainland sugar quota for Puerto Rico are prescribed 90 percent of the 1969 direct-consumption portion of the mainland sugar quota for Puerto Rico is hereby allotted as follows:

Allottee	Direct-consumption allotment (Short tons, raw value)
Central Aguirre Sugar Co., a trust..	5,918
Central Rolig Refining Co.....	19,280
Central San Francisco.....	1,044
Puerto Rican American Sugar Refinery, Inc.....	94,759
Western Sugar Refining Co.....	22,074
Liquid sugar reserve for persons other than named above.....	25
Subtotal	143,100
Unallotted	15,900
Total	159,000

(b) *Restrictions on marketing.* (1) During the calendar year 1969, each allottee named in paragraph (a) of this section is hereby prohibited from bringing into the continental United States for consumption therein, any direct-consumption sugar from Puerto Rico in excess of the smaller of (i) the sum of the allottee's allotment established in paragraph (a) of this section and the quantity brought in within any residual balance available for all persons, or (ii) the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico, and the quantity of sugar produced from Puerto Rican sugarcane which was sugar acquired by the allottee in 1969 for further processing and shipment within the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1969.

(2) During the calendar year 1969, all persons other than the allottees specified in paragraph (a) of this section are hereby prohibited from bringing into the continental United States, for consumption therein, any direct-consumption sugar from Puerto Rico except that acquired from an allottee within the quantity limitations established in subparagraph (1) of this paragraph and that brought in within the liquid sugar reserve for persons other than named allottees or within any residual balance available for all persons.

(3) Of the total quantity of direct-consumption sugar allotted in paragraph (a) of this section, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure and the balance may be filled by sugar whether or not principally of crystalline structure, except that 25 short tons, raw value, of such balance is reserved to cover shipments of liquid sugar by other than named allottees.

(4) Each allottee shall submit the notices and releases as provided in finding (11) accompanying this order.

(c) *Revision of allotments.* The Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, is hereby authorized to revise the allotments established under this section without further notice

or hearing to give effect to (1) the substitution of revised estimates or final data for estimates as provided in Finding (9) accompanying this order, (2) any increase or decrease in the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1969, as provided in Finding (10) accompanying this order, and (3) the reallocation, as provided in Finding (12) accompanying this order, of any allotment or portion thereof released by an allottee.

(d) *Transfer of marketing rights under allotments.* The Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, of the Department of Agriculture, consistent with the provisions of the Act, may permit a quantity of sugar produced from sugarcane grown in Puerto Rico to be brought into the continental United States for direct-consumption therein by one allottee, or other person, within the allotment or portion thereof established for another allottee upon relinquishment by the latter allottee of an equivalent quantity of his allotment and upon receipt of evidence satisfactory to the Director that a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved has occurred.

(Sec. 403, 61 Stat. 932, 7 U.S.C. 1153; interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U.S.C. 1115, 1119)

Effective date: January 1, 1969.

Signed at Washington, D.C., on January 7, 1969.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 69-311; Filed, Jan. 7, 1969;
1:26 p.m.]

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

[Tangerine Reg. 36, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and con-

trary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

(a) *Order.* In § 905.511 (Tangerine Regulation 36, 33 F.R. 18226; 34 F.R. 246) the provisions of paragraph (a) (2) (ii) are amended to read as follows:

§ 905.511 Tangerine Regulation 36.

(a) * * *

(2) * * *

(i) Any tangerines, grown in the production area, which are smaller than $2\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the U.S. Standards for Tangerines: *Provided*, That during any week of the period January 13 through July 31, 1969, any handler may ship a quantity of tangerines which are smaller than the size prescribed in this subdivision (i) if (a) the number of standard packed boxes of such smaller tangerines does not exceed 25 percent of the total standard packed boxes of all sizes of tangerines shipped by such handler during the same week; and (b) such smaller tangerines are of a size not smaller than $2\frac{1}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Tangerines.

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

Dated January 8, 1969, to become effective January 13, 1969.

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

[F.R. Doc. 69-395; Filed, Jan. 10, 1969;
8:48 a.m.]

[Navel Orange Reg. 163, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effec-

tive under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 907.463 (Navel Orange Regulation 163, 34 F.R. 57) are hereby amended to read as follows:

§ 907.463 Navel Orange Regulation 163.

(b) *Order.* (1) * * *

(i) District 1: 738,000 cartons;

(ii) District 2: 90,000 cartons;

(iii) District 3: 72,000 cartons.

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

Dated: January 8, 1969.

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

[F.R. Doc. 69-396; Filed, Jan. 10, 1969;
8:48 a.m.]

[Lemon Reg. 356]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.656 Lemon Regulation 356.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is

hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 7, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period January 12, 1969, through January 18, 1969, are hereby fixed as follows:

- (i) District 1: 16,740 cartons;
- (ii) District 2: 70,680 cartons;
- (iii) District 3: 98,580 cartons.

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

(Secs. 1-19, 49 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 9, 1969.

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

[F.R. Doc. 69-425; Filed, Jan. 10, 1969; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 68-SO-42]

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

Alteration of Additional Control Area and Revocation of Other Domestic Reporting Points

On November 2, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 16125) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would reduce the size of Control Area 1233 and revoke domestic reporting points "Sea Lion" and "Balboa".

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

In view of the foregoing, the proposed amendments are hereby adopted, effective 0901 G.m.t., March 6, 1969.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; Executive Order 10854, 24 F.R. 9565, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 2, 1969.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

In § 71.163 (33 F.R. 2051) Control 1233 is amended to read as follows:

CONTROL 1233

That airspace extending upward from 2,000 feet MSL bounded on the north by V-35; on the east by a line 5 miles east of and parallel to the 187° bearing from the Marathon, Fla., RBN; on the south by lat. 24°00'00" N.; on the west by a line extending from the intersection of lat. 24°00'00" N., and a line 5 miles west of and parallel to the 187° bearing from the Marathon RBN, thence via this parallel line to its intersection with lat. 24°25'00" N., thence west via lat. 24°25'00" N., to the arc of a 35-mile radius circle centered at the Key West, Fla., VOR TAC, thence northward via this arc to V-35, excluding the portion within W-465.

In § 71.209 (33 F.R. 2290) the following domestic reporting points are revoked: Sea Lion and Balboa.

[F.R. Doc. 69-358; Filed, Jan. 10, 1969; 8:45 a.m.]

[Airspace Docket No. 69-SW-84]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regula-

tions is to alter the Albuquerque, N. Mex., transition area by deleting the controlled airspace which is based on the Grants, N. Mex., VOR and by deleting reference to the Otto Airport. This action is necessary because the Grants VOR is scheduled to be decommissioned on March 6, 1969, and the Otto Airport has been closed.

Since this amendment is less restrictive in nature, and lessens the burden on the public, notice and public procedures hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, as hereinafter set forth.

In § 71.181 (33 F.R. 2139) the Albuquerque, N. Mex., transition area 1,200-foot portion is amended in part by deleting " * * * excluding the portion within an 8-mile radius of Otto Airport, Moriarity, N. Mex. (lat. 35°04'35" N., long. 106°00'10" W.), * * *" and substituting " * * * excluding the portion within an 8-mile radius of lat. 35°04'35" N., long. 106°00'10" W.; * * *" therefor; and by deleting " * * * within 10 miles south and 7 miles north of the Grants, N. Mex., VOR 267° and 087° radials, extending from the 46-mile radius area to 20 miles west of the VOR; * * *"

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on December 27, 1968.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 69-361; Filed, Jan. 10, 1969; 8:45 a.m.]

[Airspace Docket No. 68-SW-71]

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

Alteration of Transition Area

On November 16, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 17113) stating that the Federal Aviation Administration was considering amending Part 71 of the Federal Aviation Regulations to alter the Kingsville, Tex., transition area.

Interested persons were given 30 days in which to submit written data, views or arguments.

No objections have been received and the proposed amendment is hereby adopted subject to the following change.

Delete " * * * 314° bearing from the (to be named later) RBN * * *" and substitute " * * * 316° bearing from the Kleberg County RBN * * *" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., March 6, 1969.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on December 27, 1968.

HENRY L. NEWMAN,
Director, Southwest Region.

In § 71.181 (33 F.R. 2204, 5450), the Kingsville, Tex., transition area is amended to read:

KINGSVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of NAAS Kingsville (north) (lat. 27°30'10" N., long. 97°48'25" W.), within a 7-mile radius of the Kleberg County Airport (lat. 27°33'01" N., long. 98°01'39" W.), and within 2 miles each side of a 316° bearing from the Kleberg County RBN (lat. 27°36'20" N., long. 98°05'22" W.) extending from the 7-mile radius area to 8 miles northwest of the RBN, excluding that portion which lies within the Alice, Tex., control zone.

[F.R. Doc. 69-362; Filed, Jan. 10, 1969; 8:46 a.m.]

[Airspace Docket No. 68-EA-14]

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

Designation of Transition Area

On October 24, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 15713) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area near Fire Island, N.Y.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, as hereinafter set forth.

In § 71.181 (33 F.R. 2137) the Fire Island, N.Y., transition area is designated as follows:

FIRE ISLAND, N.Y.

That airspace extending upward from 8,500 feet MSL bounded on the north by Control 1169, on the southeast by a line 10 nautical miles southeast of and parallel to the southeast boundary of V-139, on the southwest by Control 1147 and on the northwest by V-139.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; Executive Order 10854, 24 F.R. 9565, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 2, 1969.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[F.R. Doc. 69-365; Filed, Jan. 10, 1969; 8:46 a.m.]

[Airspace Docket No. 68-EA-111]

PART 73—SPECIAL USE AIRSPACE
Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regula-

tions is to change the boundary of Restricted Area R-4101, Camp Edwards, Mass.

The Federal Aviation Administration has reviewed the requirement for this restricted area. It has been determined that the Army activities conducted therein do not justify the continuation of the area in its present configuration. The Department of the Army concurs in this determination. The action taken herein reduces the size of the restricted area on the western and northeastern boundaries, with a slight increase in the southeastern quadrant. This increased airspace is quite small with the widest point extending the present boundary in the southeast quadrant approximately 1,200 yards. The increased airspace will lie within the confines of Camp Edwards and the new boundary will more closely define and enclose the actual area of intended usage. The net overall effect of this boundary change would be a reduction in the size of R-4101, as presently constituted.

Since this amendment has the effect of returning airspace to the public for use, the lessening of the restriction reduces the burden on the public and notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. March 6, 1969, as hereinafter set forth.

In § 73.41 (33 F.R. 2321) Restricted Area R-4101 Camp Edwards, Mass., is amended by deleting the boundary description and substituting therefor:

R-4101 CAMP EDWARDS, MASS.

Boundaries. Beginning at lat. 41°44'17" N., long. 70°29'11" W.; to lat. 41°42'42" N., long. 70°30'51" W.; to lat. 41°42'20" N., long. 70°30'15" W.; to lat. 41°41'32" N., long. 70°30'58" W.; to lat. 41°40'54" N., long. 70°32'45" W.; thence west along the south side of Howe Road to lat. 41°40'58" N., long. 70°33'39" W.; to lat. 41°41'50" N., long. 70°35'09" W.; thence north along the east side of State Highway 28 to lat. 41°44'38" N., long. 70°35'13" W.; to lat. 41°46'06" N., long. 70°33'28" W.; to lat. 41°46'06" N., long. 70°32'39" W.; thence southeast along the southwest side of State Route 6 to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 3, 1969.

W. M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 69-360; Filed, Jan. 10, 1969; 8:45 a.m.]

[Airspace Docket No. 68-WE-97]

PART 73—SPECIAL USE AIRSPACE
Designation of Periods of Use of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regu-

lations is to designate two periods of use for Restricted Area R-6410 at Blanding, Utah.

On May 13, 1966, a rule designating Restricted Area R-6410 at Blanding, Utah, was published in the FEDERAL REGISTER (31 F.R. 7032). The time of designation for this restricted area was established as follows:

Time of designation: Continuous, June 23, 1966, through August 15, 1966. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

Since it was not possible to determine the exact dates that R-6410 would be needed each year when designation of the area was first requested, it was determined, as set forth above, to establish subsequent firing periods by a rule published in the FEDERAL REGISTER.

Since this amendment is made in accordance with procedures previously published in the FEDERAL REGISTER, I have determined that it is unnecessary to comply with the notice and public procedure requirements of 5 U.S.C. 553.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, to read as follows:

In § 73.64 (32 F.R. 17427, 33 F.R. 2339) the Blanding, Utah, Restricted Area R-6410 is amended by deleting the present time of designation and substituting the following therefor:

Time of designation: Continuous, March 15, 1969, through June 30, 1969, and August 15, 1969, through December 15, 1969. All subsequent firing periods will be designated by a rule published in the FEDERAL REGISTER.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 31, 1968.

W. M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 69-363; Filed, Jan. 10, 1969; 8:46 a.m.]

[Airspace Docket No. 68-WE-34]

PART 73—SPECIAL USE AIRSPACE
Designation of Restricted Area

On June 20, 1968, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (33 F.R. 9093) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a new joint use restricted area adjacent to the Boardman, Ore., Restricted Area R-5701.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented in writing and at a special informal airspace meeting held in Pendleton, Ore., on October 30, 1968.

The Director of the Oregon State Board of Aeronautics objected to the proposal stating that establishment of this restricted area would block the use of

the Columbia River as a VFR flyway and require civil aviation VFR flights to deviate well over into the State of Washington. He also stated that placing a floor of 2,000 feet AGL on the area would be of very little benefit as the air is turbulent in this area and flights are generally conducted at much higher altitudes for crew and passenger comfort. The primary objections of the private pilots attending the informal airspace meeting was that the proposed restricted area would block the natural VFR flyway of the Columbia River and U.S. Highway No. 30.

As a result of the objections cited above, the Department of the Navy has agreed to the following revisions to their proposal: (1) The northern boundary of Restricted Area R-5706 will be the south shore of the Columbia River to permit continued use of the river as a VFR flyway without requiring flights to detour into the State of Washington when R-5706 is activated; (2) the floor of the area will be designated as 3,500 feet MSL rather than 2,000 feet AGL to provide more airspace for VFR flight below R-5706 when activated; (3) the ceiling of the westerly portion of R-5701 will remain at 6,000 feet MSL in order to provide additional altitudes for pilots wanting to cross the western portion of R-5701 when R-5706 is not activated; (4) the Navy has agreed to only activate R-5706 when the flight visibility goes below 5 miles and, as an added safety precaution the Navy will establish a VHF air/ground frequency at Boardman Control so that general aviation pilots transiting the area may receive advisories on the location of Navy aircraft in the Boardman area. This frequency will also be used for pilots to request permission to proceed through the new restricted area when it is activated or for permission to enter the existing restricted area during periods it is not being used.

Since the above changes will result in less restricted airspace being designated than was originally proposed, notice and public procedure thereon is unnecessary.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. March 6, 1969, as hereinafter set forth.

In § 73.57 (33 F.R. 2337) the following is added:

R-5706 BOARDMAN, OREG.

Boundaries. Beginning at lat. 45°40'40" N., long. 120°02'25" W.; to lat. 45°40'40" N., long. 120°09'00" W.; to lat. 45°45'45" N., long. 120°09'00" W.; thence east along the south shore of the Columbia River to lat. 45°51'00" N., long. 119°40'00" W.; to lat. 45°53'00" N., long. 119°31'00" W.; to lat. 45°46'35" N., long. 119°31'00" W.; to lat. 45°46'10" N., long. 119°35'00" W.; thence counterclockwise along the arc of a 5-nautical-mile radius circle centered at lat. 45°43'36" N., long. 119°41'03" W.; to lat. 45°46'35" N., long. 119°46'50" W.; to lat. 45°46'35" N., long. 120°02'25" W.; to point of beginning.

Designated Altitudes. 3,500 feet MSL to 10,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Seattle ARTC Center.

Using agency. Commander, Fleet Air Whidbey, NAS Whidbey Island, Wash.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 3, 1969.

W. M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 69-364; Filed, Jan. 10, 1969; 8:46 a.m.]

[Airspace Docket No. 68-WE-95]

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to extend Jet Route No. 34 along the alignment of Jet Routes Nos. 70 and 90 from Mullan Pass, Idaho, via Ephrata, Wash., to Seattle, Wash. This would simplify flight planning and facilitate air traffic control procedures by providing a single numbered route for long-haul traffic desiring to operate between Seattle and points east via J-34.

Since this amendment is minor in nature and will not impose an undue burden on any person, the Administrator has determined that notice and public procedure thereon is unnecessary. However, since it is necessary to allow sufficient time to make the appropriate changes to aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, as hereinafter set forth.

1. In § 75.100 (33 F.R. 2349, 11451, 17851) Jet Route No. 34 is amended as follows:

a. In the caption "Mullan Pass, Idaho," is deleted and "Seattle, Wash.," is substituted therefor.

b. In the text "From Mullan Pass, Idaho, via" is deleted and "From Seattle, Wash., via Ephrata, Wash.; Mullan Pass, Idaho;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 2, 1969.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[F.R. Doc. 69-359; Filed, Jan. 10, 1969; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-551, Amdt. 10]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Inclusive Tour Charters to Foreign Tour Operators by Supplemental Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of January 1969.

In a notice of proposed rule making issued April 9, 1968,¹ the Board proposed certain amendments to Parts 208 and 295 of the Economic Regulations and Part 378 of the Special Regulations which would authorize inclusive tour charters to be operated by U.S. supplemental air carriers for foreign tour operators. As discussed in the amendment of Part 378, Regulation SPR-28, published simultaneously herewith, the Board has adopted the amendments as proposed.

In light of the comments received and the findings set forth in SPR-28, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective February 10, 1969, as follows:

1. Amend § 208.3(s) by modifying § 208.3(s) (2) (i) (d), adding § 208.3(s) (2) (i) (e), and revising the second proviso so that paragraph (s) reads, in part, as follows:

§ 208.3 Definitions.

For the purposes of this part:

(s) "Charter flight" (other than transportation pursuant to authority conferred under section 7 of Public Law 87-528) means—

(1) * * *

(2) Air transportation performed by a direct air carrier on a time, mileage or trip basis where—

(i) The entire capacity of one or more aircraft has been engaged for the movement of persons and property—

(d) By an indirect air carrier, other than a tour operator or a foreign tour operator, authorized by the Board to charter aircraft from such direct air carrier;

(e) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter; or

(ii) Less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage—

Provided, That, with respect to subdivision (ii), a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers; and *Provided, further*, That subdivision (ii) shall not be construed to apply to movements of property and shall not be construed to apply to the charter of less than the entire capacity of an aircraft by an indirect air carrier or a tour operator or a foreign tour operator.

(1) * * *

(2) * * *

(Secs. 204(a), 401, 402, Federal Aviation Act of 1958, 72 Stat. 743, 754 (as amended by 76 Stat. 143) 757; 49 U.S.C. 1324, 1371, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-398; Filed, Jan. 10, 1969; 8:48 a.m.]

¹ EDR-136, SPDR-11, Docket 1968 (33 F.R. 5771, 4/13/68).

[Reg. ER-552, Amdt. 2]

PART 295—TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION**Inclusive Tour Charters to Foreign Tour Operators by Supplemental Air Carriers**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of January 1969.

In the notice of proposed rule making issued April 9, 1968,¹ the Board proposed certain amendments to Parts 208 and 295 of the Economic Regulations and Part 378 of the Special Regulations which would authorize inclusive tour charters to be operated by U.S. supplemental air carriers for foreign tour operators. As discussed in the amendment of Part 378, Regulation SPR-28, published simultaneously herewith, the Board has adopted the amendments as proposed.

In light of the comments received and the findings set forth in SPR-28, the Board hereby amends Part 295 of the Economic Regulations (14 CFR, Part 295), effective February 10, 1969, as follows:

Amend § 295.2(b)(1)(iii) and modify a proviso so that § 295.2(b) reads, in part as follows:

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

(b) "Charter flight" means air transportation performed by a direct air carrier on a time, mileage, or trip basis where

(1) the entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage—

(iii) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter; or

(2) less than the entire capacity * * *

Provided, That with respect to subparagraph (2), a maximum of three groups may be chartered on one aircraft and each group shall consist of 40 or more passengers; and *Provided, further*, That subparagraph (2) of this paragraph shall not be construed to apply to the charter of less than the entire capacity of an aircraft by a tour operator or a foreign tour operator.

(Sec. 204(a), 401, 402, Federal Aviation Act of 1958, 72 Stat. 743, 754 (as amended by 76 Stat. 143), 757; 49 U.S.C. 1324, 1371, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-399; Filed, Jan. 10, 1969;
8:48 a.m.]

¹EDR-136, SPDR-11, Docket 19808 (33 F.R. 5771, 4/13/68).

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-28, Amdt. 2]

PART 378—INCLUSIVE TOURS BY SUPPLEMENTAL AIR CARRIERS, CERTAIN FOREIGN AIR CARRIERS, AND TOUR OPERATORS**Inclusive Tour Charters to Foreign Tour Operators by Supplemental Air Carriers**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of January, 1969.

In a notice of proposed rule making issued April 9, 1968,¹ the Board proposed certain amendments to Parts 208 and 295 of the Economic Regulations and Part 378 of the Special Regulations which would authorize inclusive tour charters to be operated by U.S. supplemental air carriers for foreign tour operators.² Pursuant to the notice, comments on the proposal have been filed by three U.S. supplemental carriers³ and two U.S. flag carriers.⁴

Upon consideration of the comments,⁵ the Board has decided to adopt the amendments as proposed.⁶ Accordingly, except as modified herein, the findings set forth in the Notice are hereby adopted.

In its comments, Pan American notes⁷ that the proposal would decline jurisdic-

¹EDR-136, SPDR-11, Docket 19808 (33 F.R. 5771).

²The notice also indicated that if the Board finalizes the subject amendments, it also would amend Part 389 (Fees and Charges for Special Services) to impose a filing fee for prospectuses in connection with such tours: \$5.00 for each tour charter described therein subject to a minimum charge of \$25.00. This matter will be disposed of separately.

³American Flyers Airline Corp., Capitol International Airways, Inc., and Saturn Airways, Inc.

⁴Pan American World Airways, Inc., and Trans World Airlines, Inc.

⁵In their comments both Pan American and TWA urge that the proposed amendments should not be adopted at this juncture, in view of the litigation then pending concerning the Board's legal power to award inclusive tour authority to supplemental air carriers in foreign and overseas transportation. However, with the signing of Public Law 90-514 by the President on September 26, 1968, the statutory authority of U.S. supplementals to perform inclusive tours is now clear, and the considerations advanced by Pan American and TWA are now moot.

⁶We are also including foreign tour operators in the authority contained in § 378.2(c) to utilize unused space in aircraft for the free or reduced-rate transportation of the operator's personnel. In light of the policy determination reached in SPR-26, July 31, 1968, 33 F.R. 11076, with respect to tour operators.

⁷Pan American also states that "the amendments as drafted could well be construed to apply to all supplementals subject to Part 378 and thus to allow foreign air carriers subject to that part to charter to any and all foreign tour operators with not even the limited controls applicable to U.S. supplementals." Pan American does not explain how the regulation could be so construed and we cannot agree that such a construction is permissible. Part 378 applies to foreign carriers holding permits authorizing the per-

tion over all foreign tour operators, whether or not regulated by foreign governments, and it argues that failure to enforce the provisions of section 402 of the Act as to foreign tour operators can be justified, if at all, "only on the basis of lack of need for duplicative regulation". We do not agree.

As indicated in the notice of rule making, "the reasons stated in Sudflug"⁸ for declining jurisdiction over foreign tour operators with respect to inclusive tours operated by foreign air carriers are equally applicable to inclusive tours operated by U.S. supplemental carriers." In Sudflug the Board did not decline jurisdiction in order to avoid duplicative regulation. Instead, its reasons included the facts that it would be extremely burdensome for foreign tour operators to comply with the requirements of sections 402 and 801 of the Act; that regulation of foreign tour operators was not required to protect American flag carriers, since any diversion should be negligible; and that regulation was not required for the safety of tour passengers, since the Board would continue to require the direct carrier to demonstrate that it is fit, willing, and able in terms of financing, organization, equipment, personnel and otherwise to perform the air transportation.

Moreover, in circumstances where jurisdiction has previously been waived with respect to foreign tour operators chartering from foreign air carriers, the assertion of jurisdiction in the case of charters from U.S. supplemental carriers would, as a practical matter, preclude the generation of foreign-originated inclusive tours by the supplementals. To begin with, assertion of jurisdiction would result in an insuperable advantage to foreign carriers holding inclusive tour authority. This is the case, since a foreign tour operator could charter from the foreign carrier without having to comply with any of the procedural requirements of the Act; whereas, a foreign tour operator would be required to obtain a permit under section 402 of the Act in order to do business with a U.S. supplemental. Under these circumstances, a foreign tour operator would be discouraged from using a U.S. supplemental for inclusive tour charters.

But apart from the above, a requirement that a foreign tour operator secure a section 402 permit before chartering from a U.S. supplemental would in itself be so burdensome as to negate the notion that foreign tour operators would invoke this procedure. As the Board noted in Sudflug, their offices are outside the United States. Many may be interested in performing only one or at the most a few tours. Under our normal pro-

formance of inclusive tours "only to the extent that such tours are to be performed subject to the provisions of this regulation" (§ 378.2(f)). No permits authorizing inclusive tours subject to foreign-originating inclusive tours to Part 378.

⁸Order E-24697, served January 31, 1967; affirmed, Pan American World Airways v. C.A.B., 392 F. 2d 483 (C.A.D.C. 1968).

cedures they would be required to file an application through diplomatic channels, retain counsel, and attend hearings. Until the permit was approved by the President there would be no assurance that the tour could be performed. Further, the mounting of an inclusive tour program requires a considerable lead time if it is to be accomplished successfully. That fact, coupled with the difficulty, expense and uncertainty of complying with the licensing procedures, would discourage most potential tour operators from attempting to secure permits. In sum, the assertion of jurisdiction would inhibit the development of foreign-originated inclusive tours by U.S. supplementals and leave the field to foreign carriers. Under these circumstances, we find that the public interest requires that we decline to exercise jurisdiction over foreign tour operators to enable U.S. supplementals to exploit the foreign-originated inclusive tour market, to encourage foreign travel to the United States and contribute toward reduction of the large balance of payments deficit.

Pan American also conjures up a host of evils which it believes would result from the omission of surety requirements and post tour reporting* and from the failure of the Board to take jurisdiction over tour operators unregulated by foreign countries and who may not, in fact, be qualified to engage in these operations. It also suggests that the Board's proposals would "apparently sanction" establishment of subsidiary or dummy foreign tour operators by U.S. supplementals which could be "employed with immunity to solicit individually ticketed travel." And the carrier wonders whether foreign subsidiaries of U.S. tour operators "could * * * be used to avoid regulations which would otherwise be applicable to the parent companies." Pan American's fears in these respects are unsupported by any factual information and appear exaggerated.¹⁹

In the first place, there is no reason to assume that U.S. supplemental carriers will deal with unqualified foreign tour operators. Rather, because it is in their own self-interest to do so, it can be expected that they will confine their dealings to reputable, financially respon-

sible and otherwise qualified tour conductors. In the second place, the "public" which Pan American believes is not given sufficient protection under the proposal would consist predominantly of foreign nationals. We believe, as stated in the notice, that requiring foreign tour operators to demonstrate their fitness or furnish a surety bond for the protection of passengers, are matters which are properly the concern of foreign governments and for them to regulate. Further, while Pan American suspects that U.S. supplementals and U.S. tour operators "could" use subsidiary foreign tour operators to avoid the Board's regulations, it has not explained how this could be accomplished. In any event, should experience under the regulation bear out any of the fears expressed by Pan American, we have ample power to take appropriate action.²⁰

With respect to comments filed by supplemental carriers, American Flyers and Capitol fully endorse the proposed rules and only Saturn is critical. The latter opposes the proposal of making foreign-originating inclusive tour transportation subject to the terms, conditions and limitations of Part 378 to the same extent as they govern the performance of U.S.-originating inclusive tour charters. It points out that, with respect to foreign permits containing inclusive tour authority, the Board has either (1) provided, as in the Transavia case,²¹ that foreign-originated inclusive tours be subject to the terms, conditions, and limitations contained in licenses issued in the country in which the tour originates or (2) imposed only a limited number of the conditions embodied in § 378.2.²² Saturn believes that no need exists for imposing any terms, conditions or limitations defining inclusive tour charters, and that the pattern followed in Transavia be adopted. However, if the Board considers that certain defining characteristics should be adopted respecting foreign-originating inclusive tour charters, Saturn states that there seems no justification for going beyond the two conditions contained in the Sudflug permit.²³

Saturn's suggestion that the restrictions of § 378.2(b) be eliminated in whole or in part as to foreign-originated inclusive tours is rejected. These restrictions are designed to preserve the distinction between charter and individually tick-

eted services,²⁴ which is a legal requirement so far as U.S. supplemental carriers are concerned. The Board has no similar statutory duty to insure that foreign charter carriers observe the distinction, and it has not believed it appropriate to impose the full spectrum of § 378.2(b) conditions on foreign carriers with respect to foreign-originated inclusive tours. On the other hand, in order not to give undue competitive advantages to foreign carriers, the Board has required them to comply with Part 378 as to U.S.-originated inclusive tours and required that foreign-originated inclusive tours be subject to foreign licensing or restrictions equivalent to certain of the Part 378 restrictions. However, the Board cannot insure absolute equality of competition in the manner urged by Saturn: viz., allowing foreign governments to determine what constitutes "supplemental air transportation" under the Act or eliminating provisions of § 378.2(b) which carry out the Board's statutory responsibility in this regard. In any event, Saturn has not shown that U.S. supplementals will be subject to a significant competitive disadvantage vis-a-vis foreign supplementals, which would inhibit their ability to mount an effective inclusive tour program. Again, as in the case of possible abuses of the regulation previously discussed, the Board has ample power to correct any undue competitive imbalance that may develop.

In consideration of the foregoing, the Board hereby amends Part 378 of its special regulations (14 CFR Part 378), effective February 10, 1969, as follows:

1. Amend the Table of Contents for Part 378 to add the titles of new §§ 378.3a and 378.19 as follows:

Sec.
378.3a Jurisdiction over foreign tour operators.
378.19 Inclusive tours operated by United States supplemental carriers for foreign tour operators.

2. Amend § 378.1 to read as follows:
§ 378.1 Applicability.

This part establishes the terms and conditions governing the furnishing of inclusive tours in interstate, overseas, and foreign air transportation by supplemental air carriers, certain foreign air carriers and tour operators, and in foreign air transportation by foreign tour operators. This part also relieves tour operators from various provisions of the Act and the Board's regulations for the purpose of enabling them to provide inclusive tours to members of the general public utilizing aircraft chartered from supplemental air carriers and certain foreign air carriers. It also sets forth the circumstances and conditions under which supplemental air carriers may charter to foreign tour operators, and contains a limited declination of exercise of jurisdiction over the latter. The provisions of this regulation shall not be construed as limiting any other author-

¹⁹ See Supplemental Air Service Proceeding, Order E-23350, March 11, 1966, p. 16.

* The carrier does note that proposed § 378.19 would require the filing of a pretour prospectus by the supplemental carrier, but it says this information "could be fabricated to mask diversion of scheduled airline traffic and in most instances the Board would never be the wiser."

²⁰ Pan American also argues, in effect, that the proposed amendments could be construed as conferring antitrust immunity on foreign tour operators. We cannot agree that such a construction is tenable. Under § 378.3a the Board declines to exercise its jurisdiction over foreign tour operators only "with respect to inclusive tours which originate in a foreign country." To the extent that sections 408, 409, and 412 of the Act are applicable to foreign air carriers they are and will continue to be applicable to foreign tour operators as foreign indirect carriers. In short, the Board is not taking any actions under sections 408, 409, or 412 which could confer immunity under section 414 of the Act.

²¹ In this connection, it is to be noted that § 378.3a reserves the Board's "right to exercise its jurisdiction over any foreign tour operator at any time if it finds that such action is in the public interest."

²² Order E-26136, approved by the President on December 16, 1967.

²³ E.g., Sudflug, supra.

²⁴ The Sudflug permit required only that: (1) each tour provide overnight hotel accommodations at a minimum of three places in the U.S. no less than 50 miles apart, and (2) an aircraft may carry a maximum of three tour groups. In two cases recently decided, the Board added a third requirement: if more than one group is carried, each group shall consist of 40 or more tour participants. (Caledonian and Transglobe, Orders 68-9-62 and 68-9-145, respectively.)

ity to engage in air transportation issued by the Board. Nothing contained in this part shall be construed as repealing or amending any provisions of any of the Board's regulations, unless the context so requires.

3. Amend § 378.2 (a), (b) (5), (c), (d) as follows and add a new paragraph (d-1) to read:

§ 378.2 Definitions.

As used in this part, unless the context otherwise requires—

(a) "Inclusive tour charter" means the charter of an entire aircraft by a tour operator or, with respect to tours which originate in a foreign country, by a foreign tour operator for the carriage by a supplemental air carrier of persons traveling in air transportation on inclusive tours.

(b) * * *

(5) An aircraft under charter to one tour operator or foreign tour operator may carry a maximum of three tour groups, provided that if more than one group is carried each of the groups shall consist of 40 or more tour participants.

(c) An "inclusive tour group" means an aggregate of persons who are assembled by a tour operator or a foreign tour operator for the purpose of participation as a single unit in an inclusive tour; *Provided, however*, that nothing contained herein shall preclude a tour operator or a foreign tour operator from utilizing any unused space on an aircraft chartered by it for an inclusive tour, for the transportation, on a free or reduced-rate basis, of such tour operator's or foreign tour operator's employees, directors, and officers, and the parents and immediate families of such persons, subject to the provisions of Part 223 of this chapter.

(d) "Tour operator" means any person of U.S. citizenship (other than a supplemental air carrier) authorized hereunder to engage in the formation of groups for transportation on inclusive tours.

(d-1) "Foreign tour operator" means any person who is not a U.S. citizen (other than a direct foreign air carrier) engaging in the formation of groups for transportation on inclusive tours and over which the Board by § 378.3a has declined to exercise its jurisdiction.

8. Add a new § 378.3a to read as follows:

§ 378.3a Jurisdiction over foreign tour operators.

The Board declines to exercise its jurisdiction over foreign tour operators with respect to inclusive tours which originate in a foreign country. The Board reserves the right to exercise its jurisdiction over any foreign tour operator at any time if it finds that such action is in the public interest.

9. Add a new § 378.19 to read as follows:

§ 378.19 Inclusive tours operated by United States supplemental carriers for foreign tour operators.

(a) At least 90 days in advance of the date of departure of the proposed tour or series of tours to be operated by a U.S. supplemental air carrier for a foreign tour operator, the supplemental carrier shall file with the Civil Aeronautics Board (Director, Bureau of Operating Rights) a Tour Prospectus which shall contain the following information:

(1) Name and address of the foreign tour operator;

(2) The proposed date and time of each flight;

(3) Equipment to be used, including the aggregate number of each type of aircraft and capacity;

(4) The tour itinerary, including hotels (name and length of stay at each), and sightseeing or other arrangements, if any;

(5) The tour price per passenger;

(6) The number of persons expected to participate in the tour;

(7) Charter price of the aircraft;

(8) The individually ticketed air fare, computed as provided in § 378.2(b) (4).

(b) A U.S. supplemental air carrier operating an inclusive tour for a foreign tour operator shall require full payment of the total charter price prior to commencement of the air transportation.

(Secs. 204(a), 401, 402, Federal Aviation Act of 1958, 72 Stat. 743, 754 (as amended by 76 Stat. 143), 757; 49 U.S.C. 1324, 1371, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-400; Filed, Jan. 10, 1969;
8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 69-22]

PART 14—APPRAISEMENT

Examination of Merchandise

There are advantages to the importing public in having merchandise examined at the place of arrival. This practice permits the prompt release and delivery of the entire shipment intact at one time, eliminates cartage which causes delays, reduces the carrier's handling costs and the costs to the importer, and expedites the determination of the duties finally assessable.

On November 2, 1968, a notice of a proposal to amend § 14.2 (a) and (b) of the Customs Regulations concerning the opening and closing of examination packages was published in the FEDERAL REGISTER (33 F.R. 16118). After due con-

sideration of all relevant data, views, and arguments submitted, § 14.2 (a) and (b) of the Customs Regulations is amended to read as follows:

§ 14.2 Examination of merchandise; procedure.

(a) Inflammable, explosive, or other dangerous merchandise, or any merchandise which cannot conveniently be examined at the public stores shall be examined at the place of arrival, the importer's premises, or other suitable place. All other merchandise shall be examined at the public stores unless examination at a place other than the public stores is approved in accordance with paragraph (b) of this section.

(b) The importer or his agent may request examination at a place other than the public stores. The request may be made on the entry or other appropriate document and if approved shall be subject to the following conditions:

(1) When the examination is to be performed at a place other than a port of entry or a customs station at which a customs officer is permanently located, any additional expense, including actual expenses of travel and subsistence, but not the salary of the examining officer, shall be paid by the importer. No collection shall be made if the total amount chargeable against one importer for 1 day amounts to less than 50 cents. If the total amount chargeable for 1 day amounts to 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made. The importer or his agent shall arrange to open and close the examination packages.

(2) When the examination is to be performed at the place of arrival, such as a pier, dock, or terminal, within the port limits, the importer or his agent shall arrange with the operator of the pier, dock, terminal, or other facility for the opening and closing of examination packages, unless other arrangements satisfactory to the district director concerned are made.

(3) When the examination is to be performed at any place within the port limits other than at the public stores or at the place of arrival within the meaning of subparagraph (2) of this paragraph, the importer or his agent shall arrange to open and close the examination packages.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

Effective date: This amendment shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

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

Approved: January 2, 1969.

JOSEPH M. BOWMAN,
Assistant Secretary
of the Treasury.

[F.R. Doc. 69-427; Filed, Jan. 10, 1969;
8:49 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. 22]

PART 422—ORGANIZATION AND PROCEDURES

Subpart A—Organization and Functions of the Social Security Administration

ORGANIZATION AND FUNCTIONS

Regulations No. 22 of the Social Security Administration, as amended (20 CFR 422.1 et seq.), are amended as set forth below.

Section 422.1 is amended to read as follows:

§ 422.1 Organization and functions.

(a) *General.* A complete description of the organization and functions of the Social Security Administration (pursuant to 5 U.S.C. 552(a), as amended by Public Law 90-23, the Public Information Act) was published in the FEDERAL REGISTER of July 15, 1967 (32 F.R. 10458), and was subsequently revised on April 16, 1968 (33 F.R. 5828), and amended on July 18, 1968 (33 F.R. 10292). Further amendments to or revisions of the description will be published in the FEDERAL REGISTER when and if required by changes in the organization or functions of the Social Security Administration. Such description (referred to as the SSA Statement of Organization, Functions, and Delegations of Authority) is printed and kept up to date in the Department Staff Manual on Organization, Department of Health, Education, and Welfare, Part 8, a copy of which is maintained in each district office and branch office of the Social Security Administration and is available for inspection and copying.

(b) *Information included in description.* This description includes information about the organization and functions of each component of the Social Security Administration. It also includes a listing of all district offices and branch offices within the organization of the Bureau of District Office Operations, and a listing of field offices within the organization of the Bureau of Hearings and Appeals where the public may secure information, make submittals or requests, or obtain decisions.

(Secs. 205, 1102, 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 331; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302, 1395hh)

Dated: December 18, 1968.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: January 3, 1969.

DONALD F. SIMPSON,
Assistant Secretary of Health,
Education, and Welfare for
Administration.

[F.R. Doc. 69-391; Filed, Jan. 10, 1969;
8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart—Provisional Regulations

POSTPONEMENT OF CLOSING DATES OF PROVISIONAL LISTING

The color additive amendments of 1960 (Public Law 86-618; 74 Stat. 404; 21 U.S.C. 376, note) authorize the Secretary of Health, Education, and Welfare to postpone the closing date of a provisional listing of a color additive on his own initiative or upon application of an interested person. Requests have been received to postpone the closing dates of provisional listings of a number of color additives because scientific investigations necessary for listing these color additives under section 706 of the Federal Food, Drug, and Cosmetic Act have not been completed.

The Commissioner of Food and Drugs finds that postponement of the closing dates of the provisionally listed color additives in this order is consistent with the protection of the public health. These extensions are granted on condition that, where applicable, progress reports be supplied on or before June 30, 1969.

The closing date of the provisional listing of calcium silicate is not postponed and the provisional listing is terminated as of December 31, 1968. This color additive had been provisionally listed on the basis that scientific investigations were underway preparatory to submission of a petition for permanent listing. The Food and Drug Administration is unaware of any studies currently being made. To allow for an orderly change in cosmetic formulations containing this color additive being delisted, a grace period of 6 months is allowed for continued use.

The color additives listed under § 8.501 (a), (b), and (c) were not authorized for use in the area of the eye under regulations issued prior to the enactment of Public Law 86-618 (Color Additive Amendments of 1960) and under section 203 thereof were not authorized for eye-area use when provisionally listed. There continues to be, however, an occasional question about such use and, to remove any ambiguity, there has been inserted in the introductory paragraph of § 8.501 a statement about eye-area use.

Therefore, pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (sec. 203(a)(2), Public Law 86-618; 74 Stat. 404; 21 U.S.C. 376, note), delegated to the Commissioner (21 CFR 2.120), § 8.501 *Provisional lists of color additives* is amended as follows:

1. The following sentence is added at the end of the introductory paragraph: "The color additives listed in paragraphs

(a), (b), and (c) may not be used in products which are intended to be used in the area of the eye."

2. In paragraph (a) *Color additives previously and presently subject to certification and provisionally listed for food, drug, and cosmetic use*, the closing dates of all the color additives listed under "Food use" are changed to June 30, 1969; and the closing dates under "Drug and cosmetic use" for FD&C Green No. 3, FD&C Yellow No. 6, FD&C Red No. 2, FD&C Red No. 4, FD&C Blue No. 2, and FD&C Violet No. 1 are changed to June 30, 1969.

3. In paragraph (b) *Color additives previously and presently subject to certification and provisionally listed for drug and cosmetic use*, the closing dates of D&C Green No. 5, D&C Green No. 6, D&C Green No. 8, D&C Yellow No. 7, D&C Yellow No. 8, D&C Yellow No. 10, D&C Yellow No. 11, D&C Red No. 17, D&C Red No. 30, D&C Red No. 33, D&C Red No. 34, D&C Orange No. 4, D&C Blue No. 6, D&C Blue No. 9, and D&C Violet No. 2 are changed to June 30, 1969.

4. In paragraph (c) *Color additives previously and presently subject to certification and provisionally listed for use in externally applied drugs and cosmetics*, the closing dates of all color additives are changed to June 30, 1969.

5. In paragraph (e) *Color additives provisionally listed for food use on the basis of prior commercial sale but which have not been nor are now subject to certification*, the closing dates of all color additives are changed to June 30, 1969.

6. In paragraph (f) *Color additives provisionally listed for drug use on the basis of prior commercial sale but which have not been nor are now subject to certification*, the closing dates of carbon black ("impingement" or "channel" process), carminic acid, cochineal extract, chromium-cobalt-aluminum oxide, ferric ammonium citrate, and pyrogallol are changed to June 30, 1969.

7. In paragraph (g) *Color additives provisionally listed for cosmetic use on the basis of prior commercial sale but which have not been nor are now subject to certification*, the item "Calcium silicate" is deleted and the closing dates of all remaining color additives are changed to June 30, 1969.

To allow orderly withdrawal from the market of calcium silicate for use in cosmetics and in the absence of information that the continued use of this color additive will adversely affect the public health, the Food and Drug Administration, for the period ending June 30, 1969, will not institute regulatory action against this color additive, or the articles in which it has been permitted to be used, solely for the reason that it is not provisionally or permanently listed as a color additive.

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since section 203(a)(2) of Public Law 86-618 provides for this issuance.

Effective date. This order is effective as of December 31, 1968.

(Sec. 203(a)(2), Public Law 85-618; 74 Stat. 404; 21 U.S.C. 376, note)

Dated: December 31, 1968.

WINTON B. RANKIN,
Deputy Commissioner of
Food and Drugs.

[F.R. Doc. 69-388; Filed, Jan. 10, 1969;
8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 86—NOTIFICATION OF ELIGIBILITY FOR RETIRED PAY FOR MEMBERS OF RESERVE COMPONENTS

Notification of Eligibility for Retired Pay at Age 60

The following has been added to § 86.3:

In the event you are now or later become entitled under any other provision of the law to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or Fleet Marine Corps Reserve, you will not be entitled to retired pay under the provisions of Title 10, U.S. Code, 1331.

MAURICE W. ROCHE,
Director, Correspondence and
Directives Division, OASD
(Administration).

JANUARY 6, 1969.

[F.R. Doc. 69-351; Filed, Jan. 10, 1969;
8:45 a.m.]

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1460—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

Capital Employed

Section 1460.11 *Capital employed* is amended by adding, at the end of paragraph (b)(1) thereof, the following:

In determining net worth and capital employed, the Board will consider book values, and will disregard amounts arising from revaluations.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

Dated: January 7, 1969.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 69-378; Filed, Jan. 10, 1969;
8:47 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 408-69]

PART 21—WITNESS FEES

Fees and Allowances for Witnesses in Alaska

By virtue of the authority vested in me by section 30 of the Act of June 6, 1900, 31 Stat. 332, and section 23(c) of the Alaska Omnibus Act, 73 Stat. 147, section 21.3 of Part 21 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. By substituting "\$24" for "\$4" in paragraph (a);

2. By substituting "\$20" for "\$15" in paragraph (b);

3. By substituting the phrase "most economical accommodations available, including jet coach," for the phrase "cheapest available first-class accommodations" in subparagraph (1) of paragraph (c);

4. By substituting "15" for "twelve" in subparagraph (2) of paragraph (c);

5. By substituting "10" for "eight" in subparagraph (3) of paragraph (c);

6. By substituting the phrase "most economical accommodations available via common carrier, including jet coach," for the phrase "cheapest first-class accommodations via common carrier" in subparagraph (3) of paragraph (c).

This order shall become effective as of December 22, 1968. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is impractical and unnecessary in this instance for the reason that the amendments made by this order are, so far as material, clearly advantageous to the persons affected thereby.

Dated: January 3, 1969.

RAMSEY CLARK,
Attorney General.

[F.R. Doc. 69-374; Filed, Jan. 10, 1969;
8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

TIME OF DELIVERY CLAUSES AND MISCELLANEOUS CHANGES

Chapter 5A of Title 41 is amended as follows:

PART 5A-1—GENERAL

1. The Table of Contents for Part 5A-1, General, is amended to add or revise the following entries:

Sec.	General.
5A-1.316-2	General.
5A-1.316-4	Terms.
5A-1.372	[Reserved].
5A-1.7301-5	Standard Form 147, Order for Supplies or Services.
5A-1.7301-6	GSA Form 1430, GSA Stores Direct Delivery Order.
5A-1.7302	Standard Form 33, Solicitation, Offer, and Award.

2. Sections 5A-1.315-2 and 5A-1.316 are amended to read as follows:

§ 5A-1.315-2 Policy.

Under ordinary circumstances, proper administration of Article 11, Default, of the General Provisions, Standard Form 32, should produce acceptable deliveries and obviate the necessity of using liquidated damage clauses. The use of liquidated damage clauses in supply contracts should be avoided except when prompt delivery is of unusual importance and knowledge of facts in connection with a specific transaction indicates the necessity therefor. FPR 1-1.315 sets forth general policy guidance and contract provisions concerning use of liquidated damages.

§ 5A-1.316 Time of delivery or performance.

§ 5A-1.316-2 General.

(a) Normally, time of delivery provisions in FSS contracts shall be stated as a "required" time of delivery, expressed in terms of specified periods of time after receipt by the contractor of a notice of award (or receipt of delivery order under term contracts).

(b) Information shall be included in the contract file to justify the use of unusually short time of delivery requirements. This is particularly important where the time specified is so short that it may limit competition and possibly result in higher prices. Examples of circumstances which could justify use of unusually short time of delivery requirements are (1) furniture is required in a short time to outfit quarters scheduled for occupancy on a specific early date, (2) construction material is required to meet predetermined job progress schedules, and (3) supplies are required at a port to meet scheduled ship sailings for overseas destinations. The contracting officer must be satisfied that the requisitioning office has justified such unusually short time of delivery.

(c) When a portion of the total requirement is needed at an early date, consideration should be given to requiring delivery of that portion by the earlier date and the balance later. Determination must be made as to whether the portion required early and the balance of the requirement should be included as separate items in the same invitation or whether the two portions should be procured under separate invitations.

§ 5A-1.316-4 Terms.

To provide evidence of the date of receipt of the notice of award or order, as

required by § 1-1.316-4(e), where circumstances warrant, certified mail with return receipt requested should be used. However, where other evidence of date of receipt by the contractor will suffice, such as his acknowledgment on a copy of the contract transmittal, the hand-delivery of the contract in connection with an award orientation conference, or when the QCR will be visiting the plant shortly after mailing of the contract, the additional expense of transmittal by certified mail may be avoided. In any event, the date of receipt by the contractor shall be determined promptly and recorded in the contract file together with the supporting evidence.

§ 5A-1.316-5 Time of delivery clauses.

(a) In general, a delivery clause substantially similar to the clause prescribed in § 1-1.316-5(b) shall be used. See paragraph (b) of this subsection for specific examples of recommended clauses. Under special circumstances where a need exists for a variation in the type of arrangement or the manner of presentation of the time of delivery clause, appropriate language consistent with § 1-1.316-5 may be developed on a case by case basis.

(b) Subject to paragraph (a) above, the following time of delivery (or time of shipment) clauses are prescribed for use.

(1) *Definite quantity contracts with a single time of delivery.*

TIME OF DELIVERY

Delivery is required within ----- days after the date of receipt of notice of award. Bids offering delivery within this period will be evaluated equally as to time of delivery. Bids offering delivery later than specified above will be considered nonresponsive and will be rejected. Bidder should insert in the space provided below a definite number of days within which delivery will be made. *If the bidder does not insert a time of delivery, his bid shall be deemed to offer delivery in accordance with the Government's required time of delivery stated above.*

Bidder's Proposed Time of Delivery: ----- days after receipt of a notice of award.

(2) *Definite quantity contracts with scheduled deliveries.*

TIME OF DELIVERY

Delivery is required to be made within the number of days after receipt of notice of award as shown in the following schedule.

Item No.	Quantity	Required delivery time (days)	Bidder's offered delivery time (days)
.....
.....
.....

Bids offering delivery of each quantity within the applicable delivery time specified above will be evaluated equally as to time of delivery. Bids offering later delivery will be considered nonresponsive and will be rejected. Bidder should insert in the appropriate blank above a definite number of days within which delivery will be made. *If the bidder does not insert a time of delivery, his bid shall be deemed to offer delivery in accordance with the Government's required time of delivery stated above.*

(3) *Requirements contracts for stock replenishment.*

(i) *Using time of shipment.*

TIME OF SHIPMENT

Shipment is required within ----- days after the date of receipt of order. Bids offering earlier shipment will be evaluated equally as to time of shipment. Bids offering time of shipment later than specified above will be considered nonresponsive and will be rejected. Bidder should insert in the space provided below a definite number of days within which shipment will be made. *If the bidder does not insert a time of shipment, his bid shall be deemed to offer shipment in accordance with the Government's required time of shipment stated above.*

Bidder's Proposed Time of Shipment: ----- days after receipt of order.

(ii) *Using time of delivery to destination.*

TIME OF DELIVERY

Delivery is required to be made within ----- days after the date of receipt of order. Bids offering delivery within this period will be evaluated equally as to time of delivery. Bids offering delivery later than specified above will be considered nonresponsive and will be rejected. Bidder should insert in the space provided below a definite number of days within which delivery will be made. *If the bidder does not insert a time of delivery, his bid shall be deemed to offer delivery in accordance with the Government's required time of delivery stated above.*

Bidder's Proposed Time of Delivery: ----- days after receipt of order.

(4) *Federal Supply Schedule Contracts for supplies.*

TIME OF DELIVERY

(a) The time of delivery for each item means the time required after receipt of an order (i) to make delivery to destination in the case of delivered prices, or (ii) to place shipment in transit in the case of f.o.b. shipping point prices.

(b) Delivery is required to be made at the point(s) specified within ----- days after receipt of order. Bids offering delivery within this period will be evaluated equally as to time of delivery. Bids offering delivery later than the time specified will be considered nonresponsive and will be rejected. Bidder should insert in the space provided below a definite number of days within which delivery will be made. *If the bidder does not insert a time of delivery, his bid shall be deemed to offer delivery in accordance with the Government's required time of delivery stated above.*

Bidder's Proposed Time of Delivery: ----- days after receipt of order.

NOTE: When time of delivery is to be shown in the schedule of items, paragraph (b) of this clause shall be appropriately modified.

(5) *Contracts for services.* Due to the wide number of variables existing in this area no prototype clause is provided for service contracts. However, see Subpart 5A-72.3.

3. The text of § 5A-1.372 is deleted and the section number reserved.

§ 5A-1.372 [Reserved]

4. Paragraph (a) of § 5A-1.373 is amended to read as follows:

§ 5A-1.373 Contract administration assistance.

(a) The contracting officer has overall responsibility for contract admin-

istration. However, the regional Quality Control Division is responsible for providing quality control and field contract administration on contracts and orders if (1) the contract specifies origin inspection, (2) the contract is under the Federal Supply Schedule program and the Quality Control Division has been assigned responsibility for providing quality control and field contract administration, or (3) when field contract administration has been requested by the contracting officer. In such cases, the Quality Control Division is responsible for initiating or requesting necessary action to ensure full compliance with all terms of the contract and for keeping the contracting officer advised of the status of the contract.

5. Paragraphs (f) and (h) of § 5A-1.7301-2 are amended and paragraph (i) is deleted. As amended, paragraphs (f) and (h) read as follows:

§ 5A-1.7301-2 Preparation of GSA Forms 300, 301, 364, 300a, and 301a.

(f) *Inspection considerations.* (1) Reference to specifications, brand names, and samples. Purchase orders shall reflect the specification requirements of the accepted bid in sufficient detail to permit proper inspection and acceptance of delivered merchandise. When the bidder is required by the invitation to specify the brand name of the item he is offering, the purchase order shall state the accepted brand name or number. If it is necessary to refer to a sample, in addition to the specification, this shall be clearly stated on the purchase order for the guidance of the quality control representative.

(2) *Origin inspection.* When GSA Form 300 is the award document and inspection will be made at origin, the address of the office which will arrange for such inspection shall be entered on the purchase order. If the place at which origin inspection is to be performed is other than the contractor's address shown in the Seller's block of the purchase order, the place of inspection shall be stated in the body of the purchase order. Two copies of the award document shall be furnished to the origin quality control activity responsible for performing such inspection.

(h) In lieu of using a purchase order form, Standard Form 122, Transfer Order Excess Personal Property shall be prepared when obtaining excess personal property. Transfer orders shall be prepared in accordance with FPMR 101-43.4906 and FPMR 101-43.315.

6. Sections 5A-1.7301-3, 5A-1.7301-5, 5A-1.7302, and paragraph (a) of 5A-1.7303 are amended to read as follows:

§ 5A-1.7301-3 Distribution of copies of GSA Forms 300 and 301.

Two (2) copies of purchase order corrections or amendments which change the place where origin quality control will be performed from one regional Quality

Control Division to another shall be distributed to both regional Quality Control Divisions involved. In addition, the regional Quality Control Division which now has acquired the origin quality control responsibility because of the correction or amendment will also be provided two (2) copies of the basic purchase order.

§ 5A-1.7301-5 Standard Form 147, Order for Supplies or Services.

Standard Form 147 may be used in accordance with the instructions contained in § 1-3.605-2.

§ 5A-1.7302 Standard Form 33, Solicitation, Offer, and Award.

Standard Form 33, Solicitation, Offer, and Award, shall be prepared and distributed in accordance with § 5A-72.107.

§ 5A-1.7303 Contracts.

(a) Preparation. Contracts shall be prepared in accordance with Part 5A-2 or Part 5A-3, as appropriate, and numbered in accordance with § 5-1.352.

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

1. The table of contents for Part 5A-2 is amended to include the following revised entries:

Sec.	
5A-2.201-74	[Reserved]
5A-2.201-75	[Reserved]
5A-2.201-76	[Reserved]
5A-2.201-77	[Reserved]

2. Sections 5A-2.201-74, 5A-2.201-75, 5A-2.201-76, 5A-2.201-77 and 5A-2.303-70 are deleted and the section numbers reserved except for § 5A-2.303-70 which is deleted in its entirety.

3. Paragraph (a) of § 5A-2.407-78 is amended to read as follows:

§ 5A-2.407-78 Awarding small quantity items.

(a) In view of the administrative cost involved in issuing separate purchase orders for small quantities, the policies set forth in this section shall be observed in making awards on invitations which provide for individual item prices. No special clause is required in the invitation since Standard Form 33A, Solicitation Instructions and Conditions, permits the Government to accept any item or group of items of any bid unless qualified by specific limitation of the bidder. Where numerous small orders would result from awards to each low bidder on an invitation and it is clear that any of the prospective bidders would be in a position to furnish all of the items required (or related categories of items) and the items are of such a character that suppliers would normally be interested in receiving only a substantial part of those quoted on, the following policies shall be observed:

4. Paragraph (b) of § 5A-2.407-83 is amended to read as follows:

§ 5A-2.407-83 Notification of contract award.

(b) Evidence of time of receipt. See FPR 1-1.316-4(e) and 5A-1.316-4.

§ 5A-2.407-87 [Reserved]

5. The text of § 5A-2.407-87 is deleted and the section reserved.

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

Subpart 5A-72.1—Procurement of Store Stock Items

1. Paragraph (b) of § 5A-72.105-9 is amended to read as follows:

§ 5A-72.105-9 Inspection.

(b) Contract documents for Quality Control Division. Distribution of contractual documents is covered in § 5A-72.105-23 and § 5A-76.201. With respect to quality control copies of contractual documents, experience has shown that they are received more promptly if the purchase activity forwards them directly to the Quality Control Division in the regional office which will perform quality control and field contract administration. The Procurement Operations Division and each regional Buying Division shall take positive steps to assure that necessary copies of contractual documents and purchase orders are distributed to the appropriate regional Quality Control Division simultaneously with their release to suppliers. Where origin inspection is specified, it is essential that copies of documents furnished to quality control activities show the location from which the material will be shipped. Where additional copies of purchase orders are required, GSA Form 364 should be used.

2. Paragraphs (a), (b), and (c) of § 5A-72.105-10 are amended to read as follows:

§ 5A-72.105-10 Time of delivery or shipment.

(a) The provisions prescribed in § 5A-1.316-5 shall apply to both definite and indefinite delivery type contracts for stores stock items.

(b) The number of days to be stated as the required delivery time will depend on the circumstances. Where the invitation provides that contractors shall maintain stocks on hand ready for shipment upon receipt of orders, the delivery time to be specified by the Government should be considerably less than where the contractor would be expected to commence production on receipt of delivery orders.

(c) Where f.o.b. destination prices are requested, invitations should provide for bidders to state the number of days they will require for making delivery after receipt of delivery orders.

3. Section 5A-72.105-11 is amended to read as follows:

§ 5A-72.105-11 Billing and payment.

Contracts shall provide that payment will be made by the GSA regional offices. Where inspection, acceptance, and receipt are accomplished at point of origin and shipments are made on Government bills of lading, contracts should provide that payment will be made upon receipt of invoices accompanied by a copy of each bill of lading evidencing delivery to the carrier of the items covered by the invoices, and upon receipt of evidence of inspection and acceptance of such items by the Government.

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A-73.1—Production and Maintenance

1. Section 5A-73.116 is amended to read as follows:

§ 5A-73.116 Time of delivery.

(a) See §§ 1-1.316 and 5A-1.316.

(b) When it is necessary to provide different delivery times for different items or groups of items in the invitation, the invitation for bids shall provide spaces for bidders to indicate the offered delivery time for each such item or group of items.

(c) [Reserved]

(d) [Reserved]

(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: January 6, 1969.

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

[F.R. Doc. 69-369; Filed, Jan. 10, 1969; 8:46 a.m.]

Chapter 12B—Coast Guard, Department of Transportation

[68-145]

PART 12B-7—CONTRACT CLAUSES

Subpart 12B-7.50—Clauses for Fixed Price Vessel Repair, Alteration or Conversion Contracts

PART 12B-16—PROCUREMENT FORMS

Subpart 12B-16.50—Forms for Advertised and Negotiated Alteration or Repair of Vessels Contracts

Equal Opportunity

Pursuant to the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4, the following actions are prescribed:

1. Section 12B-7.5001-24 is revised to read as follows:

§ 12B-7.5001-24 Equal opportunity.

Insert the clause set forth in § 1-12.803-2 of this title.

1. In § 12B-16.5003 paragraph (a) is amended by adding subparagraph (4), to read as follows:

§ 12B-16.5003 Terms, conditions, and provisions.

(a) * * *
(4) The clause prescribed in § 1-12.803-2 of this title, shall be substituted for the present provision of Article 25, Equal Opportunity.

(14 U.S.C. 633, 10 U.S.C. ch. 137. Apply sec. 6(b), 80 Stat. 938; 49 U.S.C. 1655(b); 49 CFR 1.4)

Dated: January 2, 1969.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[P.R. Doc. 69-368; Filed, Jan. 10, 1969; 8:46 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Policy Re Procurement of Lowest Cost Items From GSA Supply Sources

Policy guidance is provided to clarify that where a desired similar item is obtainable under both the GSA supply depot system and the Federal Supply program agencies shall order from whichever source provides the lowest cost item which will adequately serve the particular functional end-use purpose of the procurement; and that a GSA waiver is not required to procure a similar item from one GSA supply source in lieu of another.

The table of contents for Part 101-26 is amended by adding §§ 101-26.100 and 101-26.100-1, as follows:

- 101-26.100 Scope of subpart.
- 101-26.100-1 Procurement of lowest cost items.

Subpart 101-26.1—General

Sections 101-26.100 and 101-26.100-1 are added, as follows:

§ 101-26.100 Scope of subpart.

This subpart provides policy guidance of a general nature concerning procurement of lowest cost items obtainable from GSA supply sources; availability from GSA of special buying services in addition to the specified GSA procurement sources; methods of payment to the GSA General Supply Fund by procuring agencies; criteria for placing end-of-year purchase documents with GSA and for ensuring that end-of-year requisitions placed with GSA obligate the applicable fiscal year appropriation; and justification requirements to support negotiated procurement by GSA for other agencies.

§ 101-26.100-1 Procurement of lowest cost items.

GSA provides under both its supply depot system and the Federal Supply Schedule program, lines of similar items to meet particular end-use requirements. Although these similar items may differ in terms of price, quality, and essential characteristics, they can often serve the same functional end-use procurement needs of the various ordering agencies. Therefore, in submitting requisitions or purchase orders for an item obtainable from both GSA stock and Federal Supply Schedule contracts, agencies shall utilize the source from which the lowest cost item can be obtained which will adequately serve the functional end-use purpose.

Subpart 101-26.3—Procurement From GSA Supply Depots

Section 101-26.301-1 is amended by revising paragraph (b) as follows:

§ 101-26.301-1 Similar items.

(b) When an agency determines that items available from GSA stock will not serve the required functional end-use purpose, requests to waive the requirement for using such GSA stock items shall be submitted to GSA for consideration. However, a waiver is not required where a desired similar item will be procured from a Federal Supply Schedule contract in accordance with the policy set forth in § 101-26.100-1 relating to acquisition of the lowest cost item from this GSA source.

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

Section 101-26.401-3 is amended by revising paragraph (b) as follows:

§ 101-26.401-3 Similar items.

(b) When an agency determines that items available from Federal Supply Schedule contracts will not serve the required functional end-use purpose, requests to waive the requirement for using such Federal Supply Schedule items shall be submitted to GSA in a similar manner to that set forth in § 101-26.301-1 for GSA stock items. However, a waiver is not required where a desired similar item will be procured from GSA stock in accordance with the policy set forth in § 101-26.100-1 relating to acquisition of the lowest cost item from this GSA source.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: January 6, 1969.

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

[P.R. Doc. 69-370; Filed, Jan. 10, 1969; 8:46 a.m.]

Chapter 114—Department of the Interior

ESTABLISHMENT OF CHAPTER

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. III, 1965-1967) and sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c), a new Chapter 114 (as set forth below) is added to Title 41 of the Code of Federal Regulations.

This new chapter (41 CFR Ch. 114, cited as IPMR) contains the Department of the Interior regulations on property management which supplement the Federal Property Management Regulations (41 CFR Ch. 101, cited as FPMR).

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

DAVID S. BLACK,
Acting Secretary of the Interior.

JANUARY 7, 1969.

PART 114-1—INTRODUCTION

Subpart 114-1.1—Regulation System

Sec.	
114-1.100	Scope of subpart.
114-1.103	Temporary-type IPMR.
114-1.104	Publication of IPMR.
114-1.104-50	Filing.
114-1.105	Authority for IPMR system.
114-1.106	Applicability of IPMR.
114-1.108	Departmental implementation and supplementation of FPMR.
114-1.109	Numbering in IPMR system.
114-1.109-50	Bureau and Office codification.
114-1.109-51	Citation to IPMR.
114-1.110	Deviation.

Authority: The provisions of this Part 114-1 issued under 5 U.S.C. 301 (Supp. III, 1965-1967) and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114-1.1—Regulation System

§ 114-1.100 Scope of subpart.

This subpart establishes a system and describes procedures for promulgating Department of the Interior Property Management Regulations (IPMR), 41 CFR Ch. 114, within the Federal Property Management Regulations System (FPMR), 41 CFR Ch. 101. It implements and supplements the Federal Property Management Regulations governing the acquisition, utilization, management, and disposition of real and personal property.

§ 114-1.103 Temporary-type IPMR.

The Department of the Interior Property Management Regulations System includes a temporary-type issuance which will be used in the following situations:

- (a) Where the regulation will remain in effect for a specific temporary period of time or is for one-time application; or
- (b) When time will not permit preparation and publication of the regulations in final codified form. As a general rule, "Temporary-type" regulations having continuing application will be converted to permanent form within 90 days after publication.

§ 114-1.104 Publication of IPMR.

IPMR will be published in the FEDERAL REGISTER, and in separate looseleaf form in a distinctive light green color. Loose-leaf publications will be distributed to Bureaus and Offices.

§ 114-1.104-50 Filing.

IPMR follows the same numerical order as the FPMR. Where the IPMR issuance relates to material issued by GSA in the FPMR, it should be filed immediately following the subpart to which it relates. IPMR material which relates to subject matter not covered in FPMR should ordinarily be filed at the end of the part.

§ 114-1.105 Authority for IPMR system.

The Department of the Interior Property Management Regulations System is prescribed by the Secretary pursuant to authority conferred by:

(a) Public Law 89-554, approved September 6, 1966, 5 U.S.C. 301 (Supp. III, 1965-1967), (80 Stat. 379).

(b) The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, 40 U.S.C. 486(c).

(c) Other authorities specifically cited in the text, and

(d) FPMR 101-1.108.

§ 114-1.106 Applicability of IPMR.

IPMR are applicable to all Bureaus and Offices in the Department of the Interior unless otherwise indicated in IPMR or provided by law.

§ 114-1.108 Departmental implementation and supplementation of FPMR.

The Department will issue supplemental instructions (IPMR) to:

(a) Expand upon material already covered in the basic FPMR. In the absence of any supplemental instructions, the basic FPMR material shall govern.

(b) Incorporate property management policies and procedures related to subject matter not covered in FPMR.

§ 114-1.109 Numbering in IPMR system.

(a) Numbering in the IPMR system generally conforms to that used in FPMR, except that the number "114" is used in lieu of "101" to identify the Department of the Interior.

(b) IPMR issued to incorporate instructions not covered in the FPMR System, as referred to in § 114-1.108(b), will be numbered "50" or higher to identify the section, subpart, or part, as appropriate.

§ 114-1.109-50 Bureau and office codification.

Bureau regulations codified into the FPMR System will be identified by alphabetical designation immediately following the Department Code (114), as specified below:

- 114A—Office of the Secretary.
- 114B—Office of Management Operations.
- 114C—Bureau of Commercial Fisheries.
- 114D—Bureau of Sport Fisheries and Wildlife.
- 114E—Bureau of Mines.
- 114F—Geological Survey.

- 114G—Office of Coal Research.
- 114H—Bureau of Indian Affairs.
- 114J—Bureau of Land Management.
- 114K—National Park Service.
- 114L—Office of Territories.
- 114M—The Alaska Power Administration.
- 114N—Bureau of Outdoor Recreation.
- 114P—Federal Water Pollution Control Administration.
- 114R—Office of Saline Water.
- 114S—Bureau of Reclamation.
- 114T—Bonneville Power Administration.
- 114U—Southeastern Power Administration.
- 114W—Southwestern Power Administration.
- 114Z—Defense Electric Power Administration.

§ 114-1.109-51 Citation of IPMR.

When citing material covered in the IPMR System, the complete number should be used. For example, this paragraph, when referred to, should be cited as "IPMR 114-1.109-51". (A more detailed reference such as "IPMR 114-1.109-51(a)(iii)" generally will not be required, however.)

§ 114-1.110 Deviation.

Deviations from mandatory provisions of FPMR (as provided in 41 CFR 101-1.110) and IPMR shall be kept to a minimum. Deviations in both individual cases and classes of cases must be approved in advance by the Assistant Secretary for Administration. Requests for approval of such deviations shall be submitted by the heads of Bureaus and Offices to the Assistant Secretary for Administration citing the specific part of FPMR or IPMR from which it is desired to deviate, setting forth the nature of the deviation and the reasons for the action requested.

PART 114-3—ANNUAL REAL PROPERTY INVENTORIES

Subpart 114-3.1—General Provisions

- Sec.
- 114-3.104 Source of data.
 - 114-3.105 Agency liaison.

Subpart 114-3.2—Annual Report—Real Property Owned by the United States

- 114-3.200 Scope of subpart.
- 114-3.201 Reporting agency.
- 114-3.204 Reports to be submitted.
- 114-3.205 Optional reporting method.
- 114-3.206 Preparation and due dates.

AUTHORITY: The provision of this Part 114-3 issued under 5 U.S.C. 301 (Supp. III, 1965-1967) and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114-3.1—General Provisions

§ 114-3.104 Source of data.

Data reflected in the real property inventory reports shall be based on real property and accounting records maintained by the reporting Bureau or Office.

§ 114-3.105 Agency liaison.

The Director of Management Operations, Office of the Assistant Secretary for Administration, is the designated agency representative for this Department for liaison with the General Services Administration on matters related to the owned and leased real property

inventories. Any questions concerning these inventories shall be referred to him for handling.

Subpart 114-3.2—Annual Report—Real Property Owned by the United States

§ 114-3.200 Scope of subpart.

This subpart prescribes the procedure and forms to be used by Bureaus and Offices in connection with annual reports on real property owned by the United States, including real properties held in trust by the Bureau of Indian Affairs.

§ 114-3.201 Reporting agency.

The inventory report shall be prepared and submitted by the Bureau or Office which has basic accountability for the property, with authority to assign, reassign, or dispose of it. Thus, where one bureau holds or occupies real property under a permit, or memorandum of agreement, from another bureau, whether within or outside of this Department, the bureau granting the permit, and not the bureau occupying the real property, is always the one which must report. If the grantee bureau has any reason to believe that the grantor bureau may not be reporting such property, this should be clarified in writing between the bureaus concerned, so that both no-reporting and duplicate reporting are avoided.

§ 114-3.204 Reports to be submitted.

Each Bureau and Office having basic accountability for real property shall prepare an annual inventory report to cover such property in accordance with detailed instructions found in FPMR 101-3.2, 101-3.49, and in the following paragraphs:

(a) Reports shall be prepared on GSA Forms 1166 and 1209, except when arrangements have been made to furnish detailed machine listings and punched cards as provided in IPMR 114-3.205.

(b) GSA Form 1166: Data on this form are transposed by GSA onto punch cards and mechanically printed. It is important, therefore, that special care be taken to follow the detailed GSA instructions, regarding number of digits, placing of decimal points, etc.

(1) Note that for purposes of this inventory, the reporting entity is an "installation". To increase the usefulness of this report, bureaus are urged to:

Report separately those units physically separate from each other, particularly if in different counties, or if such units have been separately authorized, individually mentioned in budget justification, serve as a different local population center, etc.

Coordinate this report with the accounting system and all other complementary reporting requirements, such as budget justification and preparation, quarters' surveys and reports, land utilization and status reports, etc. The more realistically "installation" is fitted in with the bureau's other needs for information, the more readily all such data can be cross-checked, and one submission serves several reporting requirements.

(2) Bureaus and Offices shall assign an agency control number (Block 2) to

each installation. This number shall identify both this Department and the Bureau, e.g., I-LIA-118, or I-MBM-224.

(3) Block 3 of GSA Form 1166 shall be left blank when a new installation is reported for the first time. The GSA control number assigned to a new installation by GSA will be made available to the reporting bureau at the time the annual machine listing is distributed. This number should be reflected in any subsequent revision of the report for the installation.

(4) Blocks 13 and 19 should express "Dates acquired" by full years, e.g., 1910-1921 and not 1910-21.

(5) In the cost block (Block 16) enter a zero for each entry of public domain land, rather than leaving this block blank. Where cost of acquired land was less than \$500, enter "N" (Negligible) and explain in remarks. Except for Historic Site lands held by the National Park Service, enter the estimated amount land acquired by donation or for a nominal sum would have cost if it had been purchased at the time.

(c) GSA Form 1209: The "Remarks" block shall include a summary statement describing the nature and causes of any major or significant changes occurring in all categories of real property being reported, as compared with the prior years report. For example, if a bureau's land holdings show a significant increase, it should be made clear whether this is due to continuing small acquisitions at most installations, or a few large acquisitions pursuant to a new program.

(d) Consolidated GSA Form 1166: Each Bureau and Office shall prepare and submit, in original only, a consolidated GSA Form 1166 report of all of its real property holdings as of June 30 each year. Only Blocks 1, 6, and 11 through 30 need be completed.

§ 114-3.205 Optional reporting method.

Any Bureau or Office desiring to submit its real property inventory in the form of a machine listing supported by punch cards shall notify the Director of Management Operations so that appropriate arrangements can be made with the central office of GSA.

§ 114-3.206 Preparation and due dates.

The annual inventory report on GSA Forms 1166 and 1209 shall be prepared as of June 30 each year and transmitted to reach the Director of Management Operations, Office of the Assistant Secretary for Administration by not later than August 21, in the number of copies indicated below:

GSA Form 1166—An original and one copy. A complete file of all current individual installation reports shall be maintained by the bureau headquarters office.

GSA Form 1209—An original and two copies and one copy to be retained by the bureau headquarters office.

Consolidated GSA Form 1166—An original only is required for retention and use by the Director of Management Operations.

[P.R. Doc. 69-357; Filed, Jan. 10, 1969; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1000—THE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1100—GENERAL RULES OF PRACTICE

PART 1131—TEMPORARY AUTHORITY APPLICATIONS UNDER SECTION 210a(a) OF THE INTERSTATE COMMERCE ACT

Establishment of Motor Carrier Board

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of December 1968.

As part of the Commission's reorganization of its Office of Proceedings, the functions of the Temporary Authorities Board and the Transfer Board are consolidated into a new Board to be called the Motor Carrier Board. To effect this consolidation, those provisions of Chapter X, of Title 49 of the Code of Federal Regulations which contain the designa-

tions "Temporary Authorities Board" and "Transfer Board" are amended below to change the designation to "Motor Carrier Board."

It is ordered, That Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

1. In Appendix I to Subpart B of Part 1000, item 6 under the "Office of Proceedings" is amended to read as follows:

APPENDIX I—LIST OF EMPLOYEES REQUIRED TO SUBMIT ICC FORM NO. 1164

Office of Proceedings:

6. Chairman and Members of the Motor Carrier Board.

2. In § 1100.225 of Subchapter B, the section heading, paragraph (a), and subparagraph (b)(1) are amended by changing "Temporary Authorities Board, the Transfer Board" to read "Motor Carrier Board." In paragraph (f), "Temporary Authorities Board" is changed to read "Motor Carrier Board." In paragraph (g), "Transfer Board" is changed to read "Motor Carrier Board."

3. Part 1131 of Subchapter B is amended by changing "Temporary Authorities Board" to read "Motor Carrier Board" in paragraphs (a) and (c), and subparagraph (d)(4) of § 1131.2; subparagraph (a)(1) and paragraph (b) of § 1131.4; and paragraphs (a) and (c) of § 1131.6.

It is further ordered, That these amendments shall become effective January 21, 1969.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, secs. 204, 205, 49 Stat. 546, as amended; secs. 304, 316, 54 Stat. 933, 946; secs. 403, 417, 56 Stat. 285, 297; 49 U.S.C. 12, 17, 304, 305, 904, 916, 1003, 1017)

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[P.R. Doc. 69-379; Filed, Jan. 10, 1969; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 194, 201]

LIQUOR DEALERS AND DISTILLED SPIRITS PLANTS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to (1) prescribe a standard-size blue export strip stamp in lieu of denominational stamps of one-half pint or more and eliminate requirements for overprinting blue export strip stamps; (2) provide for the in-bond movement of distilled spirits over a private roadway; (3) prescribe that the mingling of distilled spirits shall be pursuant to a notice rather than to an application; (4) eliminate the requirement for recording the alcohol content of distilling material produced on the premises; (5) provide for the measurement of distilling materials which are not susceptible to ordinary gallonage measurements or to the determination of their alcoholic content; (6) prescribe that wholesale liquor dealers' reports on Form 338 shall be filed semiannually instead of monthly and that proprietors of bottling premises shall file reports of strip stamps, Form 2260, quarterly instead of monthly; (7) authorize approval of volumetric gauge

and prescribe the manner in which production gauge must be made when spirits are to be withdrawn free of tax or without payment of tax; (8) eliminate the requirement for noting deposit records at the time spirits of 190 degrees or more of proof are withdrawn; (9) eliminate the requirement that a separate transfer-in-bond form, Form 236, be prepared where packages or cases of spirits produced by two or more producers are removed in one conveyance; (10) provide, in certain cases, for continuing authorizations to remove chemical byproducts without application to and approval by the assigned officer; (11) expand the definition of "export or exportation" pursuant to a statutory change; (12) provide for the premixing of denaturants not readily soluble in alcohol; (13) provide for the overprinting of strip stamps with the class and type of product and for the partial obscuring of strip stamps; and (14) make a number of minor procedural or clarifying changes; the regulations in 26 CFR Part 194, and in 26 CFR Part 201 are amended as follows:

PARAGRAPH A. 26 CFR Part 194 is amended as follows:

1. In order to provide for the filing of the wholesale liquor dealer's report, Form 338, semiannually instead of monthly, § 194.232 is revoked and § 194.221, the center heading preceding § 194.231, and §§ 194.231, 194.233, and 194.238(b), are amended to read as follows:

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition of distilled spirits by him, and shall, daily, prepare a recapitulation record showing the total wine gallons if in bottles, or proof gallons if in packages, of distilled spirits received and disposed of during the day. Every wholesale dealer in liquors shall submit on Forms 52A and 52B daily or periodic reports, prepared from his records, of the physical receipt and disposition of distilled spirits by him: *Provided*, That upon application, the assistant regional commissioner may relieve a dealer from the requirement of preparing and submitting such daily or periodic reports on Forms 52A and 52B until otherwise notified, when the assistant regional commissioner finds that such reporting is not necessary to law enforcement or protection of the revenue. Every wholesale dealer in liquors who offers distilled spirits for sale shall submit a semiannual report on Form 338, showing the total wine gallons if in bottles, or proof gallons if in packages, of distilled spirits (a) on hand at the beginning of the period, (b) received during the period, (c) disposed of during the

period, and (d) remaining on hand at the end of the period.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

DAILY AND SEMI-ANNUAL REPORTS

§ 194.231 Wholesale liquor dealer's semiannual report, Form 338.

As of the close of business June 30 and December 31 of each year, every wholesale dealer in liquors who is required to keep the records prescribed in § 194.221 shall prepare, on Form 338, in duplicate, a report showing the total quantities of distilled spirits received and disposed of during the preceding 6-month period. If there were no receipts or disposals of distilled spirits during the period, Form 338 shall be prepared showing the quantity on hand the first day of the period and the quantity on hand the last day of the period and marked "No transactions during period." The original of Form 338 shall be filed with the assistant regional commissioner not later than the 10th day of the month succeeding the period for which rendered, and the copy shall be retained by the proprietor.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.232 [Revoked]

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions from the first day of the period in which business is discontinued through the date of such discontinuance, mark such report "Final," and file the form with the assistant regional commissioner within 10 days of the date of such discontinuance.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

(b) Where retail sales of distilled spirits (sales to persons who are not dealers) normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may, in lieu of the records required by § 194.225, keep records as prescribed in § 194.239 for all retail dealers in liquors, and all distilled spirits at the premises may be considered as having been received in the dealer's retail department. In addition, as prescribed by § 194.226, he shall prepare records of disposition on all distilled spirits sold at wholesale, and shall prepare recapitulation records of such spirits, as prescribed in § 194.230. Distilled spirits which have been considered as having been received in the retail department, and which are involved in a wholesale transaction, shall be considered as having been transferred to the wholesale department at the time of sale. The semi-annual report on Form 338

prescribed in § 194.221 shall be submitted in accordance with the provisions of § 194.231, even if there have been no wholesale transactions in distilled spirits. Unless relieved of the requirement, pursuant to application under § 194.221, the dealer shall submit daily or periodic reports on Forms 52A and 52B of all his wholesale liquor dealer transactions in distilled spirits. The dealer's wholesale department need not be maintained in a separate room or be partitioned off from the retail department.

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

2. Paragraph (c) of § 194.271 is amended to provide for the filing of the strip stamp report, Form 2260, on a quarterly instead of a monthly basis. As amended, § 194.271(c) reads as follows:

§ 194.271 Requirements and procedure.

(c) *Records.* The dealer shall keep records, daily, showing the bulk alcohol received, dumped for packaging, packaged, strip stamped, and disposed of, including the name and address of each consignor and consignee. A report, on Form 2260, of strip stamp transactions shall be prepared as of the close of business March 31, June 30, September 30, and December 31 of each year. The dealer shall also prepare a monthly report on Form 2733 of bulk alcohol received, packaged, and disposed of. Reports on Form 2260 and Form 2733 shall be submitted to the assistant regional commissioner not later than the 10th day of the month succeeding the period for which rendered. Records, documents, or copies of documents supporting such records, and copies of reports submitted to the assistant regional commissioner shall be filed and retained as prescribed in §§ 194.241 and 194.242.

(72 Stat. 1343, 1358, 1360; 26 U.S.C. 5116, 5205, 5206)

3. Section 194.283 is amended to provide for the filing of Form 338 on a semi-annual instead of a monthly basis. As amended, § 194.283 reads as follows:

§ 194.283 Records.

The provisions of Subpart O regarding records and reports relating to liquors for domestic use are hereby extended to export storage transactions permitted under the provisions of this subpart: *Provided*, That an appropriately identified separate Form 338, covering export storage transactions in distilled spirits, shall be submitted for each semiannual period in which there are any such transactions.

PAR. B. 26 CFR Part 201 is amended as follows:

1. Section 201.11 is amended to expand the definition of "Export or exportation" pursuant to a statutory change. As amended, the definition reads as follows:

§ 201.11 Meaning of terms.

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention

of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa, and Guam, and to the Panama Canal Zone shall also be treated as exportations.

2. Sections 201.66, 201.74, 201.76, 201.94, and 201.96 are amended to specify how many copies of the required applications shall be prepared. As amended, these sections read as follows:

§ 201.66 Spirits produced in industrial processes.

Persons producing spirits in industrial processes (including spirits produced as a byproduct in connection with chemical or other processes) are distillers and are required to qualify under the provisions of chapter 51, I.R.C., and this part. Where nonpotable chemical mixtures containing spirits are produced (a) for transfer to the bonded premises of a distilled spirits plant for completion of processing (distilling), or (b) as a byproduct (which would require expensive and complex equipment for the recovery of spirits therefrom) (1) which is destroyed on the premises where produced, or (2) which contains the minimum quantity of spirits practicable with the process employed and will not be further processed for the purification or removal of the spirits and which the Director finds is as nonpotable as completely denatured alcohol and the recovery of spirits therefrom would be at least as difficult as the recovery of spirits from completely denatured alcohol, the Director may waive any provision of chapter 51, I.R.C., or this part, with respect to the production of such mixture, including any provision relating to qualification. Where the producer of such nonpotable mixtures desires to secure a waiver of any of such provisions he shall file an application therefor with the Director through the assistant regional commissioner. The application shall be submitted in quadruplicate and shall set out the name and address of the producer, the chemical composition and source of the nonpotable mixture, and the approximate percentages of the chemicals and of the spirits in the mixture, the method of operation proposed, and, if applicable, the bonded premises whereat the mixture will be processed, and such other information as the Director may require. If the Director finds that the waiver of the requirements, or any of them, will not jeopardize the revenue and will not unduly hinder supervision of the operations, he may approve the application under such terms and conditions as he deems advisable, and subject to the furnishing of any bond which he deems necessary.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.74 Removal of distilling material.

The assistant regional commissioner may, on receipt of an application there-

for (in triplicate), authorize the removal from bonded premises of mash, wort, or wash—

(a) To plant premises, other than bonded premises, for use in such businesses as may be authorized under § 201.73;

(b) To other premises for use in processes of manufacture not involving the production of (1) vinegar by the vaporizing process, (2) spirits, or (3) alcoholic beverages; or

(c) For destruction;

if he deems that such removal and use, or method of destruction, will not constitute a jeopardy to the revenue. The proprietor shall record the quantity and alcoholic content of the mash, wort, or wash removed or destroyed. The person receiving such mash, wort, or wash shall record the quantities (and alcoholic content) received and used or disposed of, and maintain such records on the premises where such material is used; reports of such operations need not be submitted unless required by the assistant regional commissioner. Operations authorized by this section shall be under such supervision as the assistant regional commissioner may direct.

(72 Stat. 1365; 26 U.S.C. 5222)

§ 201.76 Hours of operation.

Operations at a plant requiring direct supervision by an assigned officer shall not be conducted on Sunday unless specifically authorized by the assistant regional commissioner in each instance on the showing of emergency. All operations requiring direct supervision shall be conducted during an 8-hour work day between 7 a.m. and 5 p.m. unless, pursuant to the proprietor's application (in triplicate) specifying the reasons for requesting extension or change of hours of operation, the assistant regional commissioner authorizes the performance and supervision of such operations during other hours. The assistant regional commissioner, in administering this provision, shall not restrict such operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.94 Quantity determination of rectified products.

Where gauge is made to determine tax on rectified products, the quantity (wine gallons) shall be determined by volume or by weight and apparent proof (hydrometer indication, corrected to 60° F.), pursuant to the provisions of Part 186 of this chapter. Where it is impracticable to measure rectified products such as sparkling wines, rock and rye, and similar specialties in tanks, the assistant regional commissioner may, pursuant to written application submitted in triplicate by the proprietor, authorize the volumetric measurement of such products on the basis of the number of filled bottles of each standard of fill corrected to volume at 60° F. In such case, any rectification

tax and any additional wine tax shall be determined after bottling.

(72 Stat. 1396; 26 U.S.C. 5559)

§ 201.96 Commercial gauging.

The assistant regional commissioner may, pursuant to application submitted in triplicate by the proprietor, permit the weighing and proofing of specific packages of spirits on bonded premises for purposes such as obtaining data on storage conditions or the result of special production procedures. Applications for permission to do such work shall contain sufficient information to enable the assistant regional commissioner to evaluate the merits of the request. When such applications are approved, the proprietor shall in each instance, before beginning the operation, inform the assigned officer of the time and place where the work will be done.

3. Section 201.102 is amended to (1) provide for the "in-bond" movement of distilled spirits over private roadways, and (2) specify how many copies of the required description shall be prepared. As amended, § 201.102 reads as follows:

§ 201.102 Conveyance of untaxpaid spirits within a plant.

Spirits on which the tax has not been paid or determined may be conveyed from the production facilities of a plant to the bonded warehouse facilities of such plant, from the bonded warehouse facilities of a plant to the production facilities of such plant, or between different portions of the bonded warehouse facilities of the same plant, across any other premises of such plant; or (by uninterrupted transportation) over any public thoroughfare; or (by uninterrupted transportation) over a private roadway if the owner, or lessee, of such roadway agrees, in writing, to allow Government officers access to such roadway to perform their necessary duties; *Provided*, That the conveyance of spirits as authorized in this section is subject to the following conditions:

(a) Such spirits are not stored or allowed to remain on any premises of such plant other than bonded premises.

(b) Such spirits are kept completely separate and apart from spirits on which the tax has been paid or determined.

(c) A description (in triplicate) of the means and route of such conveyance and of the facilities between which such spirits will be conveyed, and a copy of any agreement furnished by the owner, or lessee, of a private roadway have been submitted to and approved by the assistant regional commissioner, and

(d) Consent of surety on bond, Form 2601, has been furnished by the proprietor, on Form 1533, extending the terms of such bond to cover such conveyance of such spirits.

(72 Stat. 1356, 1398; 26 U.S.C. 5201, 5601)

4. Paragraph (c) of § 201.103, and § 201.112 are amended to specify how many copies of required descriptions or applications shall be prepared. As amended, §§ 201.103 and 201.112 read as follows:

§ 201.103 Spirits in Customs custody.

Spirits in Customs custody may be conveyed, when necessary, across distilled spirits plant premises: *Provided*, That (a) such spirits are not stored or allowed to remain on the premises of such plant, (b) such spirits are kept separate and apart from other spirits on such premises and are moved expeditiously, (c) a description (in triplicate) of the means and route of conveyance of such spirits across the plant premises has been submitted to and approved by the assistant regional commissioner, and (d) consent of surety on bond, Form 2601, has been furnished by the proprietor, on Form 1533, extending the terms of such bond to cover such conveyance of such spirits.

§ 201.112 Bonded warehouses not on production premises.

A bonded warehouse, other than one established on bonded premises of a plant qualified for production of spirits, or one contiguous to a distillery operated by the bonded warehouseman, may be established only if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of spirits: *Provided*, That where commercial bonded warehouse facilities are not available in an area and it is impractical to have a warehouse of such capacity, the Director may approve the establishment of a warehouse without regard to the minimum storage requirements. The application for registration to establish a warehouse under the provisions of this section shall be accompanied by a separate written application, in triplicate, setting forth the necessity for the establishment of the warehouse, showing the approximate quantity of spirits that will be received, stored, and withdrawn annually, the probable number of depositors of spirits, and the approximate number of persons to be served from the warehouse, together with any other data or documents indicating the prospective volume of business or need for establishment. The application for registration shall not be approved if the proposed location of the warehouse would constitute a jeopardy to the revenue, satisfactory evidence of the need for the establishment of the warehouse has not been submitted, or the prospective volume of business would be insufficient to warrant the expense of supervision by internal revenue officers. The Director may limit the type of operation, such as, for bulk storage only, for package storage only, or for bulk storage and denaturing only, which may be conducted at a bonded warehouse which is to be established without regard to the minimum storage requirements. The proprietor of a bonded warehouse established for a limited type of operation shall not, in any manner, expand or change his operation to include any other type of operations until, pursuant to written application (in quadruplicate) to make such change, he has obtained the approval of the Director.

(72 Stat. 1353; 26 U.S.C. 5178)

5. Sections 201.201 and 201.232 are amended to specify how many copies of required applications or reports shall be prepared. As amended, §§ 201.201 and 201.232 read as follows:

§ 201.201 Indemnity bond conditioned to stand in lieu of prior liens.

Where a lien is imposed on the distiller's property under section 5004(b) (1), I.R.C., or where any similar lien has been imposed under prior provisions of internal revenue law, the distiller may, pursuant to application (in duplicate) to, and approval by, the assistant regional commissioner, file consent, Form 2602, to further condition the bond, Form 3A, furnished under the provisions of § 201.200, to stand in lieu of such lien or liens and to indemnify the United States for the payment of all taxes and penalties which otherwise could be asserted against such property by reason of such lien or liens. When a consent on Form 2602 has been accepted and approved by the assistant regional commissioner, such lien or liens shall be held to be extinguished. The assistant regional commissioner will not accept or approve such consent, Form 2602, if there is any pending litigation or outstanding assessment with respect to such taxes or penalties, or if he has knowledge of any circumstances indicating that such consent is tendered with intent to evade payment or defeat collection of any tax or penalty.

(72 Stat. 1317, as amended, 1349; 26 U.S.C. 5004, 5173)

§ 201.232 Emergency breaking of seals or locks.

Where persons or property are in imminent danger from fire, flood, or other disaster, or where emergency repairs to equipment are necessary and it is essential that such repairs be made without delay to prevent substantial loss, and it is impractical to first obtain authorization from the internal revenue officer, Government seals or locks may be removed, as necessary, by the proprietor, or by police or firemen (in the case of disaster). When such action is taken, the proprietor shall see that security measures are taken to prevent illegal removal of spirits and, as soon as practical, shall notify the internal revenue officer of the action taken, and shall submit to him, within 5 days, a written report (in duplicate), executed under the penalties of perjury, describing the emergency and the action.

6. Section 201.246 is amended to delete the reference to certification of test weights by the National Bureau of Standards. As amended, § 201.246 reads as follows:

§ 201.246 Measuring devices and proofing instruments.

The proprietor shall provide the necessary measuring tanks, weighing tanks, scales, and meters or other measuring devices which have been approved by the Director for weighing or measuring materials, spirits (including denatured spirits), and denaturants. Where scales or weighing tanks are provided, the proprietor must furnish the internal

revenue officer with a set of ten 50-pound cast-iron weights, certified by (a) a State department of weights and measures, (b) a responsible scale company, or (c) another agency or company approved by the assistant regional commissioner, as conforming to class "C" requirements of the National Bureau of Standards. Where test weights are furnished they shall be under the custody of the assigned officer when not in use. The proprietor shall provide, for his own use, accurate hydrometers, thermometers, and other necessary equipment for determining proof.

7. Paragraph (c) of § 201.248 is amended to provide for the issuance of certificates of accuracy when scales are tested, adjusted, or repaired by responsible scale companies. As amended, § 201.248(c) reads as follows:

§ 201.248 Testing of scales.

(c) *Tank scales over 500 gallons.* Proprietors shall have scales used for weighing lots of spirits (including denatured spirits) of 500 gallons or more tested, and their accuracy certified, by State, county, or city departments of weights and measures or by a responsible scale company at intervals of not more than 6 months. When a scale is tested, adjusted, or repaired by a responsible scale company, the proprietor shall secure a signed statement, in duplicate, from the scale company (and shall furnish a copy to the assigned officer), certifying that the scale has been tested, adjusted, or repaired, as the case may be, and found to be accurate. Proprietors, under the supervision of the assigned officer, shall also check, at least once a month, the gallonage represented to be in a scale tank against the gallonage indicated by volumetric determination of the contents of the tank. Such volumetric determination shall be made in accordance with the provisions of Part 186 of this chapter. Unless the volumetric check is within 0.5 percent of the quantity shown to be in the tank, the proprietor shall take appropriate steps to have the accuracy of the scale verified. When the assigned officer determines that the condition of a tank scale of large capacity indicates the necessity therefor, he shall require the proprietor to test the scale in the manner prescribed for a smaller capacity scale in paragraph (b) of this section, except that the test may be commenced when the tank contains considerable quantities of liquid.

(72 Stat. 1358; 26 U.S.C. 5204)

8. Section 201.266 is amended to provide for determining the quantity and proof of unfinished spirits produced from certain nonliquid distilling materials. As amended, § 201.266 reads as follows:

§ 201.266 Distillation processes.

The process of distillation in the production facilities shall be such that the spirits pass through continuous, closed stills, pipes and vessels from the first still where entry into the system would

constitute a jeopardy to the revenue until the process of production is completed. The distiller may, in the course of manufacture, carry his product through as many distilling operations as he may desire, provided the process is closed and continuous. Distilling processes are deemed to be continuous where the spirits are carried through the various steps of production as expeditiously as plant operation will permit. The collection of unfinished spirits for the purpose of redistillation is not deemed to be a break in the continuity of the distilling process. However, the quantity and proof of any unfinished spirits produced from distilling materials, the quantity of which was ascertained in the manner authorized in § 201.618(c) for such materials, shall be determined and recorded before any mingling with other materials or before any further processing of the unfinished spirits. Where spirits are percolated through oak chips or otherwise treated, the temporary retention of the spirits in tanks pending such treatment is permissible. Spirits may be held, prior to the production gauge, only for so long as is reasonably necessary to complete the process of production.

(72 Stat. 1326, as amended, 1338, 1353, 1362, 1365; 26 U.S.C. 5025, 5082, 5178, 5211, 5222)

9. Subparagraph (2) of paragraph (c) of § 201.269 is amended by redesignating the present text of subdivision (iii) as subdivision (iv) and by inserting a new subdivision (iii) to provide for volumetric measurement under certain conditions. The new subdivision (iii) and redesignated subdivision (iv) read as follows:

§ 201.269 Production gauge.

(c) *Tax not to be determined on production gauge.* * * *

(2) * * *

(iii) On approval by the assistant regional commissioner, by volumetric measurement in a calibrated tank, converting the wine gallons so determined into proof gallons, and determining therefrom the average content of each container: *Provided*, That the assistant regional commissioner may require the use of such meters or other measuring devices as he may deem necessary; or

(iv) By determining, by such device or method as may be approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container.

10. Paragraphs (a) and (b) of § 201.275 are amended to specify how many copies of required applications or descriptions shall be prepared. As amended, § 201.275 (a) and (b) reads as follows:

§ 201.275 Distillates containing extraneous substances.

(a) *Production facilities.* Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distill-

ing system prior to the production gauge for addition to fermenting or distilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of this paragraph shall not be removed from the production facilities and shall be added promptly to the fermenting or distilling material. If the distillates contain less than one-half of 1 percent of fusel oil, or less than one-tenth of 1 percent of aldehydes, the removal and use of the distillates shall be made pursuant to a written application (in triplicate) filed with, and approved by, the assistant regional commissioner, and pursuant to such conditions as the assistant regional commissioner may require to assure that the distillates will be properly used and accounted for. Applications under this paragraph will not be approved if the removal and use of distillates would require additional hours of direct supervision.

(b) *Bonded wine cellar.* Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distillery from which the distillates were removed: *Provided*, That the assistant regional commissioner finds, pursuant to a written application (in triplicate), that such removal and use will not jeopardize the revenue and will not require additional hours of direct supervision. The gauge and removal of distillates to an adjacent bonded wine cellar shall be in accordance with the applicable provisions of Subpart L of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent winery shall be in accordance with the provisions of Part 240 of this chapter. If such distillates contain less than one-tenth of 1 percent of aldehydes, the removal shall be subject to such additional conditions relating to gauging, recordkeeping, manner of removal from the distilling system and from the distillery, or use as the assistant regional commissioner shall require to assure that such distillates will be properly used and accounted for.

(72 Stat. 1356, 1365, 1382; 26 U.S.C. 5201, 5222, 5373)

11. Section 201.279 is amended to provide continuing authority to remove chemical byproducts from production facilities. As amended, § 201.279 reads as follows:

§ 201.279 Disposition of chemicals.

Chemical byproducts of the spirits production system may be removed from the plant premises by pipeline or in such containers as the proprietor may desire. The quantities of such chemicals removed from the plant premises shall be determined by the proprietor. Packages of such chemicals shall be appropriately marked by the proprietor to show the nature of the contents. Chemical byproducts may be removed from the production facilities only pursuant to a written

application, in duplicate, filed with and approved by the assigned officer: *Provided*, That the assistant regional commissioner may authorize, on a continuing basis, a proprietor to remove a chemical byproduct from production facilities, without application to and approval by the assigned officer, where the assistant regional commissioner finds that the nature of the production process and the chemical byproduct to be removed are such that the revenue will not be jeopardized by such removal. Products so removed shall be subject to such sampling by Government officers as may be deemed necessary.

(72 Stat. 1356; 26 U.S.C. 5201)

12. Paragraph (c) of section 201.291 and sections 201.292 and 201.295 are amended to specify how many copies of required applications or descriptions shall be prepared. As amended, paragraph (c) of § 201.291 and §§ 201.292 and 201.295 read as follows:

§ 201.291 Receipt and storage of spirits.

(c) *Storage.* Spirits (including denatured spirits) may be stored in the storage facilities on bonded premises in any container into which spirits (including denatured spirits) may be filled on bonded premises. Containers used for such storage shall be so stored that they can be readily inspected by internal revenue officers, and cases in such storage shall be so stored that they can be readily inventoried: *Provided*, That on application submitted in quadruplicate to, and approval by, the Director, the proprietor may be authorized to store packages and cases in any manner which, in the opinion of the Director, adequately safeguards the interests of the Government. Tanks and other containers (except containers to which § 201.88 is applicable) for the storage of spirits on bonded premises shall be kept securely closed, and the flow of spirits into and out of such tanks or other containers shall be controlled by Government locks or seals, or by a meter or other device approved by the Director which permits a determination of the quantity being deposited or of the quantity being removed, as the case may be. The provisions of § 201.88 are applicable in respect to storage of spirits on bonded premises in portable containers.

(72 Stat. 1356, 1357, 1362, 1366, 1398; 26 U.S.C. 5201, 5202, 5211, 5212, 5231, 5232, 5601)

§ 201.292 Quick-aging of spirits, addition of oak chips to spirits, and addition of caramel to brandy and rum.

Spirits may be quick-aged by heating during storage on approval by the assistant regional commissioner of the proprietor's written description (in triplicate) of the process to be used. Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling; if added prior to gauge for withdrawal from bonded premises notation shall be made on the deposit form. Caramel possessing no material sweetening properties may

be added to rum or commercial brandy in packages or tanks. All such operations in storage facilities on bonded premises shall be pursuant to an application (in duplicate) to, and under the direct supervision of, the assigned officer.

(72 Stat. 1328, as amended, 1356, 1357; 26 U.S.C. 5025, 5201, 5202)

§ 201.295 Change of packages.

Denatured spirits on bonded premises may be transferred to another package without prior approval by the assigned officer. Spirits in the storage facilities on bonded premises may be transferred from one package to another on written application (in duplicate) to, and approval of, the assigned officer. Except in the case of spirits of 190 degrees or more of proof, each new package shall contain spirits from only one package. Packages shall be marked and branded as provided in Subpart P of this part. The proprietor shall note the record covering the deposit of the spirits in bond to show the tare, gross weight, and tax gallons of each new package; in addition, he shall furnish the assigned officer a report, in writing, of each package change and the new elements of gauge. The provisions of this section do not apply where spirits are packaged subsequent to mingling.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

13. Section 201.301 is amended to delete the requirement for prior approval of mingling of distilled spirits by the assigned officer, and section 201.302 is amended to delete the same requirement and to prescribe that the mingling of distilled spirits shall be pursuant to a notice rather than to an application. As amended, §§ 201.301 and 201.302 read as follows:

§ 201.301 Mingling to consolidate packages under section 5234(a)(2), I.R.C.

Within 8 years of the date of original entry for deposit packages of spirits of the same kind, distilled by the same proprietor (under his own or any trade name), at the same distillery, and which have been stored in internal revenue bond in the same kind of cooperation for not less than 4 years (or 2 years in the case of rum or brandy) may be dumped and mingled in a tank in the storage facilities on bonded premises. Such mingled spirits shall be immediately repackaged, for further storage in bond, in as many as necessary of the packages from which dumped. Where spirits produced in different distilling seasons are mingled under this section, the mingled spirits shall consist of not less than 10 percent of spirits of each such season. Once the spirits are dumped and mingled, they shall be promptly drawn into packages in the manner provided in § 201.294. If draining the tank would result in a remnant package, the proprietor may determine and record the quantity of spirits remaining in the tank and treat such spirits as a part of the succeeding lot to be mingled in that tank or he may fill, gauge, and mark a remnant package: *Provided*, That if the components of the

spirits in the tank are not eligible for mingling, pursuant to this section, with the components of the succeeding lot, or if consolidation operations are discontinued, the spirits remaining must be drawn into a remnant package. No spirits mingled under the provisions of this section shall again be mingled under such provisions until at least 1 year has elapsed since the last prior mingling.

(72 Stat. 1328, 1367; 26 U.S.C. 5025, 5234)

§ 201.302 Mingling packages of spirits.

Before dumping packages of spirits on bonded premises for mingling (except heterogeneous spirits covered in § 201.298 and spirits of 190 degrees or more of proof) the proprietor shall prepare Form 2323, in triplicate, in accordance with the instructions on the form and, before mingling, deliver one copy to the assigned officer. The proprietor shall also deliver to the assigned officer a list (one copy) of the serial numbers of the packages. When packages of spirits of 190 degrees or more of proof are to be mingled, the proprietor shall notify the assigned officer and make appropriate entries in his records reflecting the mingling. Each package of spirits to be mingled under this subpart shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer; Form 2323 shall be amended when necessary. On completion of the mingling, the proprietor shall execute his report of mingling on the original and one copy of Form 2323, deliver the original to the assigned officer, and retain the copy for his files.

(72 Stat. 1367, as amended; 26 U.S.C. 5234)

14. Section 201.313 is amended to specify how many copies of the required report shall be prepared. As amended, § 201.313 reads as follows:

§ 201.313 Expiration of bonding period.

The bonding period defined in § 201.26 expires at the close of business on the twentieth anniversary of the day next preceding the date of original entry for deposit of the spirits in storage in internal revenue bond. Each June and December the proprietor shall determine whether the 20-year period of storage on any spirits in storage in bond (other than denatured spirits or spirits of 190 degrees or more of proof) will expire during the next season and, if any such spirits are in storage, render a written report, in duplicate to the assigned officer of the results of his determination. The proprietor's report shall include a full identification of the spirits and show the date of expiration of the bonding period for each container (or lot of such spirits). Before such date of expiration, the proprietor shall file an application for tax payment or other authorized disposition of such spirits. The proprietor shall, pursuant to such application, withdraw such spirits from storage on the

bonded premises before the expiration of such 20-year period.

(72 Stat. 1320, 1340, 1361; 26 U.S.C. 5006, 5173, 5207)

15. Section 201.334 is amended to conform to the proposed amendment of § 201.544 which would eliminate overprinting on export stamps. As amended, § 201.334 reads as follows:

§ 201.334 Strip stamps.

The proprietor shall affix to each bottle of spirits bottled in bond a domestic or export strip stamp, as appropriate. Such stamps shall be procured, overprinted (when required), affixed, and accounted for as provided in Subpart Q of this part.

(72 Stat. 1358; 26 U.S.C. 5205)

16. A clarifying change is made in § 201.338 by rearranging the language of the section. As amended, § 201.338 reads as follows:

§ 201.338 Marking and disposition of remnant cases.

Where there is less than a case of bottled spirits remaining from a lot of spirits bottled, either for domestic use or for exportation, the remnant will be placed in a case and such case will be given the serial number of the last full case containing spirits in the same lot, followed by the letter "R", thus: "100-R"; *Provided*, That where spirits, of the same kind and proof, produced by the same distiller at the same distillery during the same distilling season as the remnant, are to be bottled on the same or following business day, and are eligible for inclusion in the remnant case, such remnant case may be given the next serial number and held in the bottling-in-bond facilities, and the case filled with such spirits. Such remnant case, if not held in the bottling-in-bond facilities, shall be removed with other cases to storage and taxpaid for domestic consumption, or returned to the bottling-in-bond facilities when the next lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season is to be bottled, and (a) the bottles used for filling a complete case, if of the same proof and otherwise eligible, or (b) the contents dumped into the bottling tank and mingled with such other spirits for bottling. In any instance when a remnant case is removed or returned to the bottling-in-bond facilities for use as provided in this section, appropriate notations will be made on Forms 1515 showing the disposition of such remnant.

(72 Stat. 1366; 26 U.S.C. 5233)

16a. Section 201.363 is amended with regard to withdrawals of spirits from bonded premises free of tax or without payment of tax on original gauge. As amended, § 201.363 reads as follows:

§ 201.363 Withdrawal of spirits on original gauge.

Except where the production gauge is made under the provisions of § 201.269 (c) (2), spirits may be withdrawn from bonded premises for any lawful purpose

on the original gauge: *Provided*, That in the case of spirits in bulk conveyances or wooden packages so withdrawn on determination of tax, the original gauge must have been made by an internal revenue officer. Where the original gauge was made by an internal revenue officer the spirits shall be withdrawn on such gauge unless permission for a gauge at time of withdrawal is obtained from the assistant regional commissioner. When spirits in wooden packages, which are to be withdrawn on determination of tax on the original gauge, are transferred in bond, the proprietor shall note "Withdraw on original gauge" and show the details of the original gauge on all copies of Form 2630.

(72 Stat. 1357, 1358; 26 U.S.C. 5202, 5204)

17. Section 201.368 is amended to provide that where packages or cases of spirits produced by two or more producers are removed in one conveyance, one Form 236, Transfer of Spirits or Denatured Spirits in Bond, will be sufficient. As amended, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General*. (1) Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. In the case of denatured spirits, Form 236 shall be prepared as a notice of shipment. In the case of spirits, Form 236 shall be prepared as an application to the assigned officer for approval of the release. When spirits in packages are to be transferred, the consignor shall also prepare Form 2630, and when spirits in cases or in encased containers are to be transferred, he shall prepare Form 1620. Except as otherwise provided herein, a Form 236 (with Form 2630, or 1620, as applicable) shall be prepared for each conveyance. Each Form 1620 and Form 2630 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the packaging or bottling proprietor in the case of spirits of 190 degrees of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Where packages or cases of spirits produced by two or more producers are removed in one conveyance, one Form 236 may be prepared. However, a separate Form 1620 or Form 2630 shall be prepared for each name under which spirits were produced. Spirits shall not be removed from the bonded premises until Form 236, with any required Form 2630 or 1620, as applicable (or, as authorized in subparagraph (2) of this paragraph, an authorized shipment and delivery order), has been submitted to the assigned officer and his approval received for the release of the spirits. In the case of pipeline transfers of spirits, the assigned officer shall not unlock the pipeline until he has approved the Form 236. On completion of lading (or completion of transfer by pipeline), the proprietor shall execute his certificate of removal on all copies of Form 236, and

dispose of the forms in accordance with the instructions on Form 236.

(2) The proprietor may, on approval of the assistant regional commissioner, cover on one Form 236 (and Form 2630) all packages of spirits shipped by truck on the same day from his production facilities for deposit for storage in bond in another distilled spirits plant located in the same internal revenue region. In such case, the proprietor shall deliver, to the assigned officers at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their serial numbers, the name of the producer, and the serial numbers of the Government seals (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the proprietor shall complete the Form 236 and dispose of the form (and Form 2630) in accordance with the instructions on Form 236.

(b) *Packages*. When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the assigned officer, or (3) when this requirement has been waived by the Director on a finding that, because of the location of the premises and the proposed method of operation, the transfer can be made under the control of the assigned officer, and there will be no jeopardy to the revenue. The proprietor shall load the packages into the conveyance and prepare the conveyance for sealing, if it is to be sealed. The details of the last gauge for each package shall be recorded on Form 2630. If the tax gallon content for any package to be transferred has been determined by an average, as provided in § 201.269, such average tax gallon content shall be recorded as the quantity of spirits transferred for such package. When packages are weighed at the time of shipment, the shipping weight shall be shown in lieu of the last official gross weight of the package: *Provided*, That in the case of packages to be withdrawn on original gauge, the shipping weight shall be shown in addition to the details of the original gauge.

(c) *Bulk conveyances and pipelines*. When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits under the direct supervision of the assigned officer and record the gauge on Form 236. Bulk conveyances of spirits shall be prepared by the proprietor for sealing.

(72 Stat. 1362; 26 U.S.C. 5212)

18. Section 201.371 is amended by removing the material pertaining to a bond account and placing updated material in a new section, § 201.371a, Bond Account. As amended, § 201.371 and new § 201.371a read as follows:

§ 201.371 Application.

Spirits to be withdrawn from bonded premises on determination of the tax thereon shall be in such containers or cases as are prescribed in this part. The proprietor of the bottling premises to which the spirits are to be removed or the proprietor of the bonded premises from which the spirits are to be withdrawn, shall make application on Form 179 for tax determination and withdrawal. Where spirits are to be withdrawn on determination of tax, the tax thereon shall be paid before removal of the spirits from the bonded premises unless the proprietor making application for the withdrawal has furnished bond on Form 2613, 2614, or 2615 to secure payment of tax. Where the spirits are to be withdrawn by the proprietor of bottling premises from bonded premises not on the same plant premises, he shall, on execution of his portion of the application on Form 179, deliver one copy to the assigned officer at the bottling premises and forward the remaining copies of the form to the proprietor of the bonded premises. On completion of the application the proprietor of the bonded premises shall deliver all copies of the application to the assigned officer at his premises. Where spirits in packages are to be gauged in bulk gauging tanks, the proprietor of the bonded premises shall attach to Form 179 a list (one copy) of the serial numbers of the packages. Where an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling facilities at a specified future time, he may apply for the withdrawal of spirits from bond on Form 179 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such premises.

(72 Stat. 1363; 26 U.S.C. 5213)

§ 201.371a Bond account.

Where the proprietor making application on Form 179 for tax determination and withdrawal of spirits has furnished bond on Form 2613, 2614, or 2615 in less than the maximum penal sum, he shall maintain an account of his bond and he shall charge the bond with the amount of liability he accepts at the time he executes Form 179 and shall credit the bond on payment of the amount of tax required to be remitted with a return and by authorized credits taken on a return: *Provided*, That where the tax as determined is less than the amount shown on Form 179 as charged against his bond, he may, on the basis of the internal revenue officer's certificate of tax determination on Form 179, credit the bond account with the amount of difference between the amount charged and the amount of tax determined. Where a bond on Form 2615 in less than the maximum penal sum has been allocated among two or more plants as provided in § 201.210, an

account shall be maintained at each plant of that part of the penal sum of the bond allocated to that plant.

19. Section 201.373 is amended to provide that entry tare weights on Forms 2630 prepared for tax determination need be entered only when the packages are to be regauged by the average tare method. As amended, § 201.373 reads as follows:

§ 201.373 Packages.

When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of individual package gauge, each package shall be gauged unless the tax is to be determined on the original gauge. When the packages are to be withdrawn on the original gauge, the proprietor shall prepare Form 2630 and deliver the form to the assigned officer with Form 179. If spirits in wooden packages are to be gauged for tax determination, the proprietor shall complete only the heading of Form 2630 and insert the serial number, and entry tare (if the packages are to be regauged by the average tare method), of each package before delivery of the form, and Form 179, to the assigned officer for gauge of the packages by such officer. The proprietor shall gauge (under the direct supervision of an assigned officer), and report on Form 2630, metal packages to be tax-determined on other than the original gauge and deliver such form, and Form 179, to the assigned officer. Spirits in wooden packages filled from storage tanks for tax determination shall be gauged and reported on Form 2630 by an assigned officer on receipt of Form 179; metal packages so filled shall be gauged (under the direct supervision of an assigned officer) and reported on Form 2630 by the proprietor, and the proprietor shall deliver Form 2630 to such officer with Form 179. In the case of spirits distilled at less than 190 degrees of proof, the date of original entry, and the proof of distillation shall be shown on Form 2630. In the case of spirits mingled pursuant to section 5234(a)(1)(C), I.R.C. (homogeneous spirits) the date of original entry of the oldest and the youngest spirits in the mingled spirits shall be shown. On completion of gauge (if any) and computation of tax, the assigned officer will return Form 179 and Form 2630 to the proprietor.

(72 Stat. 1358, 1362; 26 U.S.C. 5204, 5213)

20. Section 201.384 is amended to remove from it, and transfer to Subpart P, certain instructions pertaining to marks. As amended, § 201.384 reads as follows:

§ 201.384 Filling packages from gauging tanks after determination of tax.

Spirits drawn into packages from bulk gauging tanks after tax determination shall be gauged by the proprietor, who shall report such gauge on Form 2630. On receipt of Form 2630 from the proprietor, the assigned officer shall issue a distilled spirits stamp for each package. Each package so filled shall be marked as

prescribed by Subpart P of this part before removal from the premises,

(72 Stat. 1362; 26 U.S.C. 5213)

21. Section 201.407 is amended to prescribe that instead of retaining the original of Form 2634, the assigned officer will forward it to the assistant regional commissioner. As amended, § 201.407 reads as follows:

§ 201.407 Notice and gauge for denaturation.

The proprietor, when he wishes to denature, shall execute his notice of intent on Form 2634, in triplicate, in accordance with the instructions thereon and deliver one copy, as a notice, to the assigned officer before any spirits are released for denaturation. The gauge of the spirits, when required, and the denaturation thereof, shall be under the direct supervision of the assigned officer. On completion of denaturation, the proprietor shall execute his report of denaturation on the original and one copy of the form and deliver them to the assigned officer who, after verification of the report, shall execute his certificate on both copies of the form, return the completed copy to the proprietor, forward the original to the assistant regional commissioner, and destroy the notice copy originally received. All spirits shall be gauged by the proprietor: *Provided*, That spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not be again gauged. Measurements of spirits and denaturants shall be made by volume or by weight or, when approved by the Director, by meter or other device.

(72 Stat. 1358, 1369; 26 U.S.C. 5204, 5241)

22. A new section, § 201.407a, is inserted, immediately following § 201.407, to provide for the premixing with alcohol of denaturants under certain conditions. The new § 201.407a reads as follows:

§ 201.407a Dissolving of denaturants.

Denaturants which are difficult to dissolve in alcohol at usual working temperatures shall be liquified or dissolved in a small quantity of alcohol in advance of their use in the production of specially denatured alcohol pursuant to the prescribed formula, and denaturants which are highly volatile or which become solid at such usual temperatures may also be dissolved in alcohol before being used. Any ethyl alcohol used in dissolving denaturants and contained in the resulting solution shall be included as part of the total quantity of alcohol denatured in each batch.

23. Section 201.408 is amended to specify how many copies of a required application shall be prepared. As amended, § 201.408 reads as follows:

§ 201.408 Adding denaturants.

Denaturants shall be added to spirits in approved mixing tanks except as provided herein. Specially denatured alcohol Formulas 18, 25, and 25-A prescribed in

Part 212 of this chapter may be denatured in packages in any quantity. The assigned officer may permit the denaturing in packages, in accordance with other formulas, of limited quantities of spirits on a showing of a need therefor. The assistant regional commissioner may, on the showing of the need therefor, authorize the denaturation of spirits in tank cars, tank trucks, or similar containers if he deems such denaturation will not hinder effective administration of this part or jeopardize the revenue. The Director may, on written application, in quadruplicate, authorize other methods of adding denaturants to spirits if he deems such denaturation will not hinder effective administration of this part or jeopardize the revenue. If requested by the Director, the proprietor shall submit a flow diagram of the intended process or method of adding denaturants. The conduct of alternate methods of denaturation may be disapproved where additional supervision would be required, or may be restricted to such times as will not require additional supervision.

(72 Stat. 1357, 1369; 26 U.S.C. 5202, 5242)

24. Section 201.425 is amended to provide for the surrender of obsolete formulas. As amended, § 201.425 reads as follows:

§ 201.425 Changes in formulas.

The addition or elimination of ingredients, changes in quantities of ingredients used (where the percentages are required to be disclosed), and changes in the process of rectification are permissible only after approval of a new Form 27-B Supplemental: *Provided*, That where such change of ingredients or process does not result in altering the class or type of the finished product or the tax applicable, the change may be accomplished by filing, with the Director, a rider to the formula. The rider, in quadruplicate, will clearly identify the original formula by number, date of approval, name of the product, and by name and number of the plant, will specify the ingredients to be added or eliminated, or the change in process, and will be signed and processed in the same manner as the original formula. Such change in ingredients or process is permissible only after approval of the rider. A new Form 27-B Supplemental or rider will not be required to cover changes in brand names. Once an approved formula is superseded by a new formula, the original formula shall no longer be used and will be surrendered to the Director. The proprietor may also voluntarily surrender, to the Director, any formula for which he has determined he has no future use.

(72 Stat. 1356; 26 U.S.C. 5201)

25. A technical change is made in § 201.432(d). As amended, § 201.432(d) reads as follows:

§ 201.432 Record of use.

(d) *Substitute records.* The proprietor, subject to the approval of the assist-

ant regional commissioner, may use another form of record in lieu of Form 122 to record batches of rectified spirits. In such case, Form 122 shall be used to record dumping of all spirits whether or not the spirits are to be used immediately in preparing a batch of a rectified product, and Forms 122 shall be prepared, in addition to the approved substitute records, where spirits or wines are to be rectified and bottled or packaged for export with benefit of drawback. Application to use substitute records shall be filed in the manner as provided in § 201.628(c).

(72 Stat. 1370; 26 U.S.C. 5251)

26. Sections 201.454 and 201.462 are amended to specify how many copies of required requests or applications shall be prepared. As amended, §§ 201.454 and 201.462 read as follows:

§ 201.454 Bottling tanks.

All spirits and wines bottled on bottling premises shall be bottled from tanks approved for bottling: *Provided*, That the assistant regional commissioner may authorize bottling from original packages or special containers where it is impracticable to use a bottling tank. Bottlers desiring to bottle from packages or special containers shall make written request (in triplicate) for approval of the assistant regional commissioner, showing the necessity therefor, as provided in Subpart D of this part.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.462 Cases.

On completion of bottling, the filled bottles with labels and strip stamps (where required) properly affixed shall be placed in cases, and the cases shall be sealed: *Provided*, That, on approval of written application (in duplicate, to the assigned officer, if any, at the plant, otherwise, in triplicate to the assistant regional commissioner) the proprietor may be authorized to retain, on plant premises, unsealed cases, pending the affixing of brand labels or State stamps. Where the mandatory information required by 27 CFR Part 5 appears on the brand label rather than a separate label, the brand label shall be affixed at the time of bottling. Spirits in unsealed cases shall be kept apart from other spirits on bottling premises. Each case of spirits or wines filled on bottling premises shall be marked as prescribed by Subpart P of this part before removal from such premises.

(72 Stat. 1356, 1360, 1367; 26 U.S.C. 5201, 5206, 5388)

27. Section 201.464 is amended to provide a reference to marking requirements. As amended, § 201.464 reads as follows:

§ 201.464 Filling packages.

Rectified or unrectified products may be drawn into packages from a tank (conforming to the requirements of § 201.243) on bottling premises. Such packages shall be gauged by the proprietor, and he shall report the details of

such gauge on Form 2630 and attach a copy of Form 2630 to each copy of Form 2637 covering the product. Such packages shall be marked as prescribed by Subpart P of this part. On receipt of Form 2630 and Form 2637 from the proprietor, the assigned officer shall issue a distilled spirits stamp for each package of spirits. The information required to be placed on the stamp shall be placed thereon by the proprietor and he shall affix the stamp to the package in the manner required by Subpart Q of this part.

(72 Stat. 1356, 1358; 26 U.S.C. 5201, 5205)

28. Sections 210.466, 201.490, and 201.514(b) are amended to specify how many copies of required applications shall be prepared. As amended, §§ 201.466, 201.490, and 201.514(b) read as follows:

§ 201.466 Rebottling, relabeling, and restamping of bottled spirits.

Bottlers desiring to rebottle, restamp, or relabel distilled spirits shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise, in triplicate, to the assistant regional commissioner. The application shall state specifically (a) the reason for the rebottling, relabeling, or restamping, (b) the serial numbers of the cases, and (c) the name of the original bottler. If the spirits were originally bottled by a bottler other than the applicant, the application shall be accompanied by a statement from the original bottler consenting to the rebottling or relabeling thereof by the applicant. When spirits are rebottled, the strip stamps on the original bottles shall be destroyed and new strip stamps used. Liquor bottles used for rebottling shall comply with the provisions of § 201.457. When spirits are relabeled, the new label shall be covered by an appropriate certificate of label approval or certificate of exemption from label approval issued under the Federal Alcohol Administration Act. Form 2637, appropriately modified, shall be prepared by the proprietor to cover the relabeling or restamping of spirits. Forms 122 and 2637 shall be prepared in accordance with this part to cover the rebottling of spirits.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.490 Affiliated or subsidiary corporation.

Where a corporation and any of its affiliated or subsidiary corporations are qualified for successive operations at the same bottling premises, the several corporations may make joint application, in triplicate, to the assistant regional commissioner for permission to be treated as one proprietor for the purpose of computing the quantities of spirits lost through the various causes described in §§ 201.482 and 201.487, and filing claims for abatement, remission, credit, or refund of tax thereon. The application shall contain or be verified by a written declaration that it is executed under the penalties of perjury and shall set forth the names of the corporations, including affiliates and subsidiaries, making the application, their relationship,

the purpose of the application, and the name of the corporation in which reports and claims shall be filed. Any changes in the facts or conditions set forth in the approved application shall necessitate the filing of a new application and approval thereof. As used in this section "affiliated or subsidiary corporations" means corporations of "an affiliated group" as defined in section 1504, I.R.C., and parent or subsidiary corporations where the parent corporation owns stock representing more than 50 percent of the total combined voting power of all classes of stock of the subsidiary corporation entitled to vote (not including stock which is entitled to vote only on default of payment of dividends or other special circumstances).

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

§ 201.514 Numbering of packages and cases.

(b) Cases of bottled spirits filled on bonded premises and cases filled on bottling premises shall be numbered in separate series. The proprietor may establish more than one series of serial numbers for cases on either bonded or bottling premises where more than one bottling unit is used and each series is distinguished from each other by the use of alphabetical prefixes or suffixes. Further, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written application (in triplicate) to, and approval of, the assistant regional commissioner. Remnant cases shall be given the serial number of the last full case followed by the letter R.

(72 Stat. 1360; 26 U.S.C. 5206)

29. Section 201.516 is amended by redesignating the present text of paragraph (e) as paragraph (f) and inserting a new paragraph (e). The new paragraphs (e) and (f) read as follows:

§ 201.516 Marks on packages of spirits filled on bonded premises.

(e) *Packages of homogeneous spirits.* Packages filled as provided in § 201.384 of this part, and which contain homogeneous spirits, shall, in addition to the marks required by paragraph (a) of this section, be marked to show that they are consolidated packages, the plant number of the premises at which filled, the kind of cooperage in which the spirits were stored, and the number of months the youngest spirits in the lot were stored in such cooperage.

(f) *Real or trade names.* The producer's real name, or any trade name authorized (as provided in § 201.146) at the time of production, may be placed on any package filled at the time of production gauge, or at the time of original packaging of the spirits in wood when, as provided in § 201.270, the spirits were not filled into wooden packages at the time of production gauge. When spirits have been mingled under § 201.297 or

§ 201.301, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits: *Provided*, That if the proprietor was the actual producer of the spirits he may in any case use his real name. When spirits have been mingled under § 201.297 and are not eligible for bottling in bond, the name of the producer marked on the package shall be followed by the letter "X" to evidence such ineligibility of the spirits.

(72 Stat. 1360; 26 U.S.C. 5205)

30. Paragraphs (b) and (c) of § 201.517, and § 201.532, are amended to specify how many copies of required applications shall be prepared. As amended, §§ 201.517 (b) and (c), and 201.532, read as follows:

§ 201.517 Kind of spirits or wine.

(b) *Change of designation.* A proprietor may, on written application (in triplicate) to, and approval of the assistant regional commissioner, change the original designation for spirits at any time, before their withdrawal from bonded premises, to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If the proprietor proposes to produce spirits for which a designation has not been prescribed, he shall first make written application, in quadruplicate, to the Director for a designation for such spirits and they shall be branded accordingly.

(72 Stat. 1360; 26 U.S.C. 5206)

§ 201.532 Relabeling and restamping off bonded or bottling premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, or restamp bottled taxpaid spirits (including taxpaid bottled-in-bond spirits) on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant. A proprietor who so desires to relabel, restamp, or affix brand labels shall make application, in duplicate, to the assigned officer, if any, at the plant, otherwise such application shall be submitted in triplicate to the assistant regional commissioner: *Provided*, That individual bottles constituting less than a full case may be relabeled and restamped with labels and stamps without the necessity of prior application. The approving officer may give continuing authority to conduct the operations described in applications submitted under this section. The proprietor shall, on his daily stamp report submitted to the assigned officer, report the number of stamps used, for each location, under the provisions of this section.

(72 Stat. 1356, 1366; 26 U.S.C. 5201, 5233)

31. In order to provide authorized abbreviations for certain information re-

quired to be placed on containers, a new section, § 201.533, is added, to follow immediately after § 201.532. New § 201.533 reads as follows:

§ 201.533 Authorized abbreviations to identify required marks.

In addition to the abbreviations and symbols which are authorized in this part for use in marking containers, the following abbreviations may be used to identify certain required marks:

Required mark	Abbreviation
Consolidated Packages.....	CON
Distilled Spirits Stamp.....	DSS
Gallon or Wine Gallon.....	WG
Gross Weight.....	G
Original Entry.....	OE
Proof.....	P
Tare.....	T
Tax Determined.....	TD
Wine Spirits Addition.....	WSA

(72 Stat. 1360; 26 U.S.C. 5206)

32. Paragraph (a) of § 201.541 and § 201.542 are amended to provide for standard-size and small-size blue strip stamps in lieu of denominational stamps for spirits bottled in bond for export, and paragraph (d) of § 201.541 is amended to provide for overprinting strip stamps with the class and type of product. As amended, paragraphs (a) and (d) of § 201.541 and § 201.542 read as follows:

§ 201.541 General.

(a) *Spirits bottled in bond.* Every bottle of spirits bottled in bond pursuant to the provisions of section 5233, I.R.C., and Subpart K of this part shall, when filled, be stamped by the proprietor with a prescribed bottle-in-bond strip stamp evidencing the bottling of such spirits in bond. The prescribed stamp is serially numbered (except stamps of less than ½ pint denomination), and shows that the spirits were bottled in bond under supervision of the U.S. Government, and, in the case of spirits bottled in bond for domestic use, the quantity of spirits in the container and the proof of the spirits. Green strip stamps are prescribed for spirits bottled in bond for domestic use, and blue for export. Blue export strip stamps, applied to bottles of spirits bottled in bond for export with benefit of drawback, shall be overprinted with the word "DRAWBACK".

(d) *Overprinting.* The words "EXPORT" or "DRAWBACK", when required to be overprinted on a strip stamp, shall be overprinted in the center of the strip stamp, in a readily legible manner, by printing or by the use of a rubber stamp or other suitable method. Subject to approval by the Director, strip stamps may be similarly overprinted with the class and type of product or with an appropriate abbreviation or symbol therefor, such as, "Bbn" for bourbon whiskey.

(72 Stat. 1358, 1389; 26 U.S.C. 5205, 5235)

§ 201.542 Bottled-in-bond strip stamp denominations.

(a) *Domestic strip stamps.* Green strip stamps for spirits bottled in bond for domestic use are provided in the fol-

lowing denominations only: 1 gallon, 1/2 gallon, 1 quart, 1/2 quart, 1 pint, 1/2 pint, and less than 1/2 pint. When bottles containing over 1/2 pint of spirits bottled in bond for domestic use are of a size for which bottled-in-bond strip stamps in the exact denomination are not provided, the proprietor shall use stamps of another denomination; he shall strike out the original denominations and shall write or print on the stamps the exact quantity of spirits contained in the bottles.

(b) *Export strip stamps.* Blue strip stamps for spirits bottled in bond for export are provided in a standard size for bottles or containers of 1/2 pint capacity or more and in a small size for bottles or containers of less than 1/2 pint capacity.

(72 Stat. 1358; 26 U.S.C. 5205)

33. Paragraph (a) of § 201.543 is amended to transfer from the assigned officer to the proprietor, the responsibility for verifying the quantity of strip stamps received from the district director. As amended, § 201.543(a) reads as follows:

§ 201.543 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the district director of the district in which the plant is located, by requisition on Form 428 approved by the assigned officer. Such stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the assistant regional commissioner, nor may they, except in the case of emergency, be requisitioned from district directors of other districts. Requisitions shall be for full sheets of such stamps, and unless the stamps are called for in person, the proprietor shall specify the means of delivery and enclose a remittance to cover the cost of such delivery. Means of delivery, other than delivery directly to the proprietor or his agent, shall be limited to (1) registered mail, (2) certified mail, or (3) express. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428 returned by the district director, forward one copy of the Form 428 to the assistant regional commissioner, and retain one copy in his files.

(72 Stat. 1358; 26 U.S.C. 5205)

34. Section 201.544 is amended to eliminate the requirement for certain overprinting of bottled-in-bond export stamps. As amended, § 201.544 reads as follows:

§ 201.544 Overprinting of bottled-in-bond stamps.

Bottled-in-bond stamps which are to be used on spirits bottled for domestic use shall be overprinted with the season and year of production and the season

and year of bottling in the blank space on the end of the stamp bearing the serial number or, in the case of the "less than 1/2 pint" denomination, on the right hand end of the stamp. The stamp shall be overprinted in the blank space on the other end with the name of the distiller (or trade name) under which the spirits were produced and warehoused; such name shall be the same as the name which appears on the label, as provided by § 201.332. If a word such as "company", "corporation", or "incorporated", is a part of such name, the abbreviation of such word may be used. Stamps which cannot be used in the season or year for which they were overprinted, or on which an error was made in the season of production on bottling, may again be overprinted. Other data may not be changed after the first overprinting. All overprinting shall be done by the proprietor or, on his order, by a reputable printer. Overprinting will be done in red ink.

(72 Stat. 1358; 26 U.S.C. 5205)

35. Section 201.545 is amended to provide that the Director may authorize the placing of labels or State stamps on bottles in such a manner as to partially obscure the strip stamps. As amended, § 201.545 reads as follows:

§ 201.545 Affixing stamps.

The proprietor shall affix strip stamps to the containers with a strong adhesive, and in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed to the container. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize State stamps or labels to be so affixed as to partially obscure strip stamps, if he finds that a need therefor exists, and if he finds that the manner of affixing such State stamps or labels does not obscure essential information on the strip stamps which is not clearly shown on the bottle or on the labels affixed to the bottle, and (b) any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can readily be removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons or wrappings, such cartons or wrappings must bear the words, "This package may be opened for examination by Internal Revenue Officers." Internal Revenue Officers have the right to open such cartons and wrappings and examine the containers. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

36. Section 201.551 is amended to specify how many copies of required appli-

cations shall be prepared. As amended, § 201.551 reads as follows:

§ 201.551 Restamping packages and conveyances.

Any package or conveyance of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Applications for such restamping shall be made in writing, in triplicate, to the assistant regional commissioner for the region in which the package or conveyance to be restamped is located. The application shall set forth the following:

(a) The serial number of each package or conveyance (and proprietor's name thereon);

(b) The location of the package or conveyance;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package or conveyance was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps. The application shall be executed under the penalties of perjury. If the assistant regional commissioner is satisfied that the package or conveyance had been properly stamped, and that the loss or destruction of such stamp is satisfactorily explained, he will issue, or cause to be issued, a distilled spirits stamp for the package or conveyance.

(72 Stat. 1358; 26 U.S.C. 5205)

37. Section 201.602 is amended to specify that Form 1512 shall be retained by the shipper. As amended, § 201.602 reads as follows:

§ 201.602 Samples of denatured spirits.

The proprietor may take such samples of denatured spirits as may be necessary for the conduct of his business. In addition, the proprietor may furnish samples of specially denatured spirits to dealers in and users of specially denatured spirits in advance of sales and to such users and to applicants or prospective applicants for permits to use specially denatured spirits for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of 1 quart, shall be furnished only pursuant to a permit on Form 1512 issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of 1 quart, and will show the permit number of the Form 1512. The proprietor shall retain the Form 1512 in his files as a part of his record of the transaction.

(72 Stat. 1362; 26 U.S.C. 5214)

38. Section 201.612 is amended to specify a retention period for deposit rec-

ords covering spirits of 190 degrees or more of proof. As amended, § 201.612 reads as follows:

§ 201.612 Maintenance and preservation of records.

Records required by this part shall be kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by an internal revenue officer during business hours. Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the Director under § 201.616 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original shall be applicable to such reproduction. Records required by this part shall be preserved for a period of not less than 4 years from the date thereof or the date of the last entry required to be made thereon, whichever is the later, except that records covering spirits of 190 degrees or more of proof in storage tanks, transferred to an inactive file in accordance with § 201.628(b), shall be preserved for a period of not less than 4 years from the date of removal from the active file, and that records of all other spirits stored on bonded premises shall be preserved for not less than 4 years from the date the spirits covered thereby are removed from the proprietor's bonded premises.

(72 Stat. 1361; 26 U.S.C. 5207)

39. Paragraph (c) of § 201.618 is amended to eliminate the requirement for recording the alcohol content of distilling material produced on the premises, and to provide for recording the receipt and use of nonliquid distilling materials which are not susceptible to ordinary methods of determining volume or alcohol content. As amended, § 201.618(c) reads as follows:

§ 201.618 Details of daily records.

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises, shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons: *Provided*, That where nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded: *Provided further*, That where it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the Director may, by approval of an application submitted by the proprietor in quadruplicate, authorize the proprietor, in lieu of weighing

or measuring, to estimate the weight or volume of the material.

(72 Stat. 1361; 26 U.S.C. 5207)

40. Section 201.624 is amended to conform to the amendment of §§ 201.541 and 201.542 which would discontinue the use of denominational blue strip stamps for spirits bottled in bond for export. As amended, § 201.624 reads as follows:

§ 201.624 Daily strip stamp record.

Each proprietor bottling spirits under the provisions of this part shall maintain, for each day a transaction in strip stamps occurs, a daily record of green bottled-in-bond strip stamps by denomination, of blue bottled-in-bond strip stamps and of red strip stamps by kind (blue or red) and by size (small or standard), and of alcohol strip stamps, showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show, by size of bottle, the number of bottles to which blue strip stamps, red strip stamps, and alcohol strip stamps were affixed, except that, as to each kind of stamp, bottles of less than one-half pint capacity shall be recorded as one item.

(72 Stat. 1358, 1361; 26 U.S.C. 5205, 5207)

41. Section 201.625 is amended to reflect the change of Form 338 from a monthly to a semiannual report. As amended, § 201.625 reads as follows:

§ 201.625 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of all distilled spirits and wines at such premises, and of all restamping operations conducted under the provisions of § 201.532. A separate record shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary to enable internal revenue officers to identify and trace such receipts and dispositions, and to ascertain whether there has been compliance with all internal revenue laws and regulations relating thereto, and to provide the proprietor with records from which to compile data for his semiannual report on Form 338. In addition to any other information shown therein, such records shall include:

(a) *As to receipts and dispositions.* (1) The date of the transaction (or date of discovery in the case of casualty or theft),

(2) The name and address of each consignor or consignee, as the case may be,

(3) The actual quantity of distilled spirits involved (proof gallons if in packages, wine gallons if in bottles),

(4) The serial numbers of packages or cases involved,

(5) The name of the producer, and

(6) The country of origin, if imported spirits.

(b) *As to restamping operations.* (1) The date of the transaction,

(2) The serial numbers of the cases involved,

(3) The total number of bottles,

(4) The name of the bottler, and

(5) The number and kind of strip stamps used.

(72 Stat. 1343, 1361; 26 U.S.C. 5114, 5207)

42. Paragraphs (a) and (b) of § 201.628 are amended to provide for the filing of a consignee proprietor's copies of Forms 236 covering packages and cases, and for the time of removing from the active file, deposit records covering spirits of 190 degrees or more of proof. As amended, paragraphs (a) and (b) read as follows:

§ 201.628 Record of spirits in storage.

(a) *Records covering deposits.* The proprietor's copies of forms (for example, Forms 236, 1620, 2323, 2630) covering (1) deposit in bonded storage of spirits received from production facilities, from other bonded premises, or by return to bond under Subpart S of this part, (2) packages filled from tanks and retained in bonded storage, (3) cases of spirits returned to the storage portion of the warehouse after bottling, (4) spirits retained in tanks after mingling or blending, and (5) spirits of less than 190 degrees of proof transferred from one tank to another, shall be filed by the proprietor as permanent records. Before filing such forms, he shall enter the date of deposit of the spirits in the warehouse at the bottom of each form. Separate files shall be maintained for spirits in packages and in cases, and such files shall be arranged by producers (warehousemen in the case of blended rums or brandies, and spirits of 190 degrees or more of proof), in chronological order according to the date of deposit in the warehouse, and, where possible, in sequence by serial numbers of packages or cases, except that Forms 236 shall be separated from their accompanying Forms 1620 or 2630 and filed in chronological order by date of deposit in the warehouse. In addition, separate files shall be maintained for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. (For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the producer.) Also, files, arranged by producers, shall be maintained for spirits of less than 190 degrees of proof in storage tanks, with a separate file for each tank of spirits. Where two or more lots of spirits of less than 190 degrees of proof are deposited in the same storage tank, the forms covering deposits in each tank shall be arranged chronologically according to the date of original entry for deposit in

bonded storage of each lot of spirits. In the case of spirits of 190 degrees or more of proof deposited in storage tanks, the proprietor shall consolidate the forms covering deposits in all tanks into one file, and such file shall be arranged chronologically by date of deposit in the warehouse.

(b) *Records covering withdrawals.* When spirits are withdrawn from bonded storage the proprietor shall note on the record of deposit required by paragraph (a) of this section, the date and disposition of the spirits so that the files shall currently reflect the spirits remaining in the warehouse. Whenever spirits of less than 190 degrees of proof are removed from storage tanks he shall indicate the date and quantity removed on the appropriate form and when a quantity equivalent to that covered by the form has been removed or otherwise accounted for, such form shall be noted accordingly and removed from the active file. Where two or more lots of spirits of less than 190 degrees of proof have been deposited in the same storage tank, removals from the tank shall be charged against the form on the basis that the lot with the earliest date of original entry for deposit is the first lot removed. When spirits of 190 degrees or more of proof are withdrawn from storage tanks the record of deposit need not be noted, but semiannually (as of June 30 and December 31) the proprietor shall remove from his file of active deposit forms all such forms in excess of those required to cover the "balance in warehouse" shown on Form 1821 for such spirits. The deposit forms so removed shall be those covering spirits which were "first-in-warehouse."

(72 Stat. 1361; 26 U.S.C. 5207)

43. Section 201.631 is amended so as to have the scope of its instruction cover reports which are filed on a quarterly basis. As amended, § 201.631 reads as follows:

§ 201.631 *Submission of reports.*

Daily reports required by this part shall be submitted to the assigned officer, or other officer designated by the assistant regional commissioner, and, unless otherwise provided by this part, shall be submitted on or before the close of business on the business day next succeeding that on which the transaction or operation occurs. Monthly, quarterly, and semiannual reports required by this subpart shall, unless otherwise provided by this part, be submitted to the assistant regional commissioner, and shall be submitted on or before the tenth day following the close of the period for which rendered.

(72 Stat. 1361; 26 U.S.C. 5207)

44. Paragraph (b) of § 201.632 is amended to conform to the proposed amendment of §§ 201.541 and 201.542 which would discontinue the use of denominational blue strip stamps for spirits bottled in bond for export. As amended, § 201.632(b) reads as follows:

§ 201.632 *Daily reports.*

(b) *Daily memorandum report of spirits bottled and of strip stamps.* Each proprietor who bottles spirits under the provisions of this part shall prepare and submit to the assigned officer, for each day a transaction in strip stamps occurs, a daily memorandum report of spirits bottled and strip stamps used. A separate report shall be submitted for each kind of strip stamp (i.e., green bottled-in-bond, blue bottled-in-bond, alcohol, and red). Each report shall show (1) the number of cases of spirits bottled, by number and size of bottle, (2) the serial numbers of such cases, and (3) separate summaries (by denomination for green bottled-in-bond strip stamps, and by size (small or standard) for blue bottled-in-bond strip stamps and for red strip stamps) of strip stamps received, used, lost, mutilated, unaccounted for, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

§ 201.633 [Amended]

45. In order to conform with the new requirements for filing Form 2260 on a quarterly basis and Form 338 on a semiannual basis, § 201.633 is amended by revoking paragraphs (c) and (d).

46. In order to provide for the filing of Form 2260 on a quarterly basis, a new section, § 201.633a, is inserted, immediately following § 201.633, to read as follows:

§ 201.633a *Quarterly report of strip stamps, Form 2260.*

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps shall prepare Form 2260, in duplicate. A separate report shall be prepared for each kind of strip stamp used. Unless otherwise directed by the assistant regional commissioner, the original shall be submitted to the assigned officer and the copy shall be retained by the proprietor.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

47. Section 201.634 is amended by adding a new paragraph, paragraph (c), to provide for filing Form 338 on a semiannual basis. The new paragraph (c) reads as follows:

§ 201.634 *Semiannual reports.*

(c) *Form 338.* As of the close of business June 30 and December 31 of each year, every proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, in duplicate, a report showing the total quantity of

distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

[P.R. Doc. 69-393; Filed, Jan. 10, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21 and 36]

[Docket No. 9337; Notice No. 69-1]

NOISE STANDARDS: AIRCRAFT TYPE CERTIFICATION

Notice of Proposed Rule Making

The Federal Aviation Administration is considering the adoption of a new Part 36 of the Federal Aviation Regulations prescribing aircraft noise standards for subsonic transport category airplanes, and for subsonic turbojet powered airplanes regardless of category. These standards would apply to certain type certificates, and to certain changes to type certificates, and would apply to certificates or changes issued by the Administrator on or after the effective date of these proposed standards, regardless of the date of application.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 12, 1969, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments and will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Public Law 90-411 adds new section 611 to the Federal Aviation Act of 1958. This section provides that "the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe * * * standards for the measurement of aircraft noise and sonic boom and shall prescribe * * * such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title" (Title VI).

Senate Report 1353 on Public Law 90-411 states that, while other approaches to aircraft noise control must be thoroughly studied and employed, "the first order of business is to stop the

escalation of aircraft noise by imposing standards which require the full application of noise reduction technology" (p. 2). The type certification standards in this notice are designed to implement this first order of business by concentrating on the aircraft that are most likely to raise the aircraft noise levels in airport neighborhoods. These aircraft include subsonic transport category airplanes regardless of means of propulsion and subsonic turbojet powered airplanes regardless of category.

Section 611(b)(3), as added by Public Law 90-411, states that the Administrator, in prescribing and amending standards, rules, and regulations under the new section, shall "consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest."

New Part 36 therefore provides (§ 36.3) that (1) each airplane must meet the applicable airworthiness regulations under all conditions in which noise compliance is shown, and (2) all noise reduction operating procedures and other information developed for the flight crew under Part 36 must be consistent with the applicable airworthiness requirements. After, as well as before, the adoption of noise standards, the levels of safety defined in the applicable airworthiness standards will control completely the safety approval of any aircraft. Thus, new Part 36 is in no way an addition to or amendment of any airworthiness standard but is rather an entirely separate source of type certification standards that must be compatible with the applicable airworthiness standards.

This notice follows a history of FAA participation in noise abatement programs involving Government, industry, and international groups. That activity predated Public Law 90-411. In October 1965, the Office of Science and Technology, at the request of the President, sponsored a symposium on the aircraft noise problem. The conclusions of this symposium are contained in the document entitled "Alleviation of Jet Aircraft Noise Near Airports—A Report of the Jet Aircraft Noise Panel", published by the Office of Science and Technology in March 1966. In his Transportation Message of March 2, 1966, the President directed that a concerted effort be made by the Federal Government to combat the growing problem of jet aircraft noise near airports. In response, the Office of Science and Technology, in cooperation with the FAA, the National Aeronautics and Space Administration, and the Department of Housing and Urban Development, initiated an "Aircraft Noise Alleviation Program" to implement specific recommendations in the above cited document.

One of the recommendations in that document was that certification of aircraft for noise be considered as one critical step in the alleviation of the aircraft noise problem. This view was endorsed by the London Conference as reflected in the document "Aircraft Noise—Report of an International Con-

ference on the Reduction of Noise and Disturbance Caused by Civil Aircraft", published in 1967. That conference was held on November 22-30, 1966, and represented 26 countries and 11 international organizations concerned with aircraft noise. Beginning in September 1966, a series of drafts of noise certification concepts prepared by the FAA were submitted to industry and refined in the light of industry comments. In February 1966, an informal Task Force representing Government and industry was established to recommend the most desirable concept of a noise certification rule.

Beginning in early 1967, discussions were held with the Governments of the United Kingdom and France in order to obtain the benefits of their aircraft noise abatement programs, and to explore the possibility of worldwide aircraft noise abatement agreements. Much information has been obtained that is useful in achieving the objectives of Public Law 90-411, particularly the use of the concept of Effective Perceived Noise Level in units of EPNdB as the evaluator of subjective response, and the use of three points of measurement (approach, take-off, and sideline).

Finally, in July 1968, the aircraft manufacturing industry proposed a variation of the same three-point concept and strongly recommended adopting the concept of maximum instantaneous perceived noise level in units of PNdB as the measure of subjective response. For reasons stated below, the FAA is unable to support the adoption of this measure of subjective response.

This notice is based on both the experience gained in 3 years of FAA coordination with the aircraft industry and on information obtained from the United Kingdom and France that the FAA considers to be most appropriate for regulatory action. However, since formal rule making is now being proposed under the express terms of Public Law 90-411, certain proposals contrary to the suggestions of the industry and those of the United Kingdom and France are contained in this notice in order to fulfill the intent of the public law. The most significant of these are (1) the elimination of the concept of a separate noise certificate, (2) the application of noise measurement, noise evaluation, and noise reduction standards (including a specified noise ceiling), to all airplanes that have turbojet engines with bypass ratios of two or more, regardless of the date of application for the type certificate or change to a type certificate, (3) the application of noise measurement, noise evaluation, and noise reduction standards (but without a specified noise ceiling) to airplanes that do not have turbojet engines with bypass ratios of two or more, for which application for a type certificate, or change to a type certificate, is made on or after the publication date of this notice, but before the effective date of the final rule, (4) the application of noise measurement and noise evaluation standards, and the application of a requirement to obtain the lowest levels that are reasonably obtain-

able through the use of operating procedures and other information for the flight crew, to airplanes that do not have turbojet engines with bypass ratios of two or more, for which application for a type certificate, or change to a type certificate, is made before the publication date of this notice, and (5) the adoption, not only of a noise ceiling, but also of a noise floor, or objective, that must be achieved where reasonable, in each type design, for which application for a type certificate, or change to a type certificate is made on or after the publication date of this notice.

The elimination of the concept of a separate noise certificate is made to conform with the provision of Public Law 90-411, which provides for the application of noise standards to certificates issued under title VI of the Federal Aviation Act of 1958. Further, the FAA believes it is desirable to introduce the technology of noise reduction to the aircraft industry in the form of aircraft certification processes with which it is familiar, namely type, production, and airworthiness certification. Finally, any forthcoming international agreement that each noise-approved aircraft be so marked for international recognition can be fulfilled by placing a statement of noise compliance on the airworthiness certificate.

In proposed § 36.201(a), the application of noise measurement, noise evaluation, and noise reduction standards, including a specified noise ceiling, to airplanes that have turbojet engines with bypass ratios of two or more, regardless of the date of application for the type certificate or change, is believed to be reasonable since the FAA has been working closely with existing applicants for such type certificates. Under this guidance, these applicants have been planning for maximum noise reduction from the earliest stages of their type certification programs. The full use of noise reduction technology has been available to assist them in this effort. The FAA believes that it would not be consistent with the intent of Public Law 90-411 to permit the type certification of these aircraft without requiring the full use of that technology. The FAA, therefore, believes that good cause exists for applying the ceiling values of Appendix C to those applicants regardless of the date of application. Appendix C represents the FAA's judgment concerning noise levels achievable by those applicants, as a class, although further individual noise reductions may be required.

In proposed § 36.201(b), the application of noise measurement, noise evaluation, and noise reduction standards, excluding the ceiling values of Appendix C, to applications for type certificates, or changes, for airplanes that do not have turbojet engines with bypass ratios of two or more, made on or after the publication date of this notice, but before the effective date of the proposed rule, is proposed since: (1) The potential for escalation of noise exists for type designs for which application is made during this period, just as much as it exists for applications made after the effective date

of the rules, and this potential escalation should not be ignored, (2) there are existing means of noise reduction that can be applied to airplanes that do not have turbine engines with bypass ratios of two or more, which means should not be ignored, and (3) however, since existing technology will not necessarily allow the attainment of the ceiling values of Appendix C at all measuring points for these aircraft, and the applicants may have previously made substantial commitments without knowledge of the impending rulemaking, it is not believed Appendix C can reasonably be applied to those aircraft as a class. The FAA, therefore, believes that good cause exists for this limited retroactive application of Part 36.

A serious question of reasonableness exists with respect to applications, for airplanes without high bypass ratio engines, made before the publication date of this notice. Unlike applications made after the date of the notice, the decision to make an application, and all of its attendant planning and investment, could not have been made with knowledge that the FAA is considering regulatory changes that could affect them. These applicants may be well along in their type certification programs. It is, therefore, believed that the attainment of noise reduction through acoustical and other design changes would be unreasonable. However, the potential noise problem created by these applications cannot be ignored. Noise measurement and evaluation should be accomplished to assess the noise levels of these aircraft for possible retrofit requirements in the future. The development of operational procedures to obtain the lowest noise levels that can be obtained through such procedures is a reasonable burden on the applicant and will be a valuable guide to flight crews. The information placed in the Airplane Flight Manual will provide valuable assistance to persons concerned with airport noise planning. Weighing all of these factors, the FAA believes that there is good cause for the limited retroactive application of noise standards specified in § 36.201(c).

The proposed adoption of a noise floor, or objective, is discussed below.

In general, this notice provides the following bases for preventing further escalation of aircraft noise:

(a) This notice adopts Effective Perceived Noise Level (EPNL) in units of EPNdB, which includes the effects of strong tones and long durations of noise exposure in order to evaluate the qualities of aircraft noise that are particularly offensive to persons on the ground. A primary objective of noise regulation is the translation of the physical causes of subjective human annoyance into mathematical units of measurement that, in fact, measure that annoyance and are precise enough for regulatory purposes. After much study, the FAA believes that EPNL is the only available noise measurement concept that can be adapted to achieve this objective. Since subjective annoyance caused by aircraft noise relates to the entire complex noise signature of the aircraft, which results from a

complete flyover of the aircraft, any truly effective measure of that annoyance must consider the effects of (1) frequency, (2) noise level, (3) duration, and (4) strong tones. It has been argued that the FAA should accept the measurement of instantaneous frequency and noise level, without correction for duration and strong tones. This is the method that would result if the concept of Perceived Noise Level (PNL) were adopted as has been urged by some segments of the aviation community. However, acoustical research has shown that an aircraft may receive a given noise rating based on noise level and frequency (without correction for duration and tone), but actually generate much more actual annoyance (because of durations and tones) than another aircraft that receives a similar rating, also based on noise level and frequency (without correction for duration and tone). Thus, the FAA believes that any regulation limited to the concept of PNL could permit the continued escalation of subjective annoyance even though prescribed PNL values are fully complied with. A correction for durations and tones must therefore be included if the objective of meaningful noise reduction at the source is to be achieved. While EPNL is slightly more complicated than PNL because it corrects for durations and tones, it is this very characteristic which provides the FAA with a basis for measuring not only the annoyance effects of current aircraft, but also the unknown and potentially highly annoying tones and durations in the noise signatures of future aircraft.

(b) This notice provides a regulatory basis for bringing a wide variety of subsonic transport category and subsonic turbojet powered airplanes under noise measurement and evaluation procedures so that knowledge may be gained to support research and development aimed at improving the ability to predict, during the early phases of type certification, the noise levels that can be expected in actual operation. As the ability to predict noise levels improves, more precise standards can be applied.

(c) This notice provides takeoff power and climb gradient achievement requirements that encourage the shrinking of the noise-exposed areas around airports in cases where local land planning can take advantage of this potential.

(d) This notice provides a sliding scale of noise limits related to aircraft weight in order to provide aircraft manufacturers, airport operators, and land use planners with guides to future conduct.

The proposals in this notice take the following two forms. First, Part 21 is amended to provide exceptions to the procedural rules that protect type certification applicants, under certain conditions, from the application of regulations issued after the date of application, amended to eliminate the present limitation to "airworthiness" standards, and amended to provide that standard airworthiness certificates would indicate compliance with noise standards. Second, new Part 36 is added containing type certification standards concerning noise only. This new part contains a basic rule

(§§ 36.1 through 36.401), an Appendix A (§§ A36.1 through A36.3), an Appendix B (§§ B36.1 through B36.7), and an Appendix C (§§ C36.1 through C36.7).

Certain provisions of the proposals in this Notice should be emphasized. The amendments to §§ 21.21, 21.29, 21.31, and 21.33 are made to reflect the fact that the applicable type certification standards are no longer limited to "airworthiness" standards. Note that the amendment to § 21.29 would make foreign aircraft subject to the same noise standards as U.S. aircraft.

In order to prevent the escalation of noise exposure, the primary question, so far as changes to aircraft are concerned, is whether that change may increase that exposure, not whether the change is "major" or "minor." Under § 21.95, a change that increased noise exposure, if "minor" from an airworthiness standpoint (as defined in § 21.93), could be approved under any method approved by the Administrator, whereas "major" changes must be approved on the basis of the submission of substantiating data and necessary descriptive data for inclusion in the type design. This latter method is the intent of proposed Part 36. Therefore, § 21.93 would be amended to provide that, for the purpose of Subparts D and E of Part 21, all changes in type design that may increase the noise exposure created by a Transport Category or turbojet powered airplane would be classified as "major changes" irrespective of their effect on the airworthiness of the airplane. This is particularly important with respect to § 21.113, Requirement for a Supplemental Type Certificate.

New § 21.183(e) is proposed as a means of meeting any future international agreement that each aircraft be identified with respect to noise compliance. For reasons discussed below, the statement of noise compliance is not proposed for aircraft using the noise prediction allowance of § C36.5(c).

In proposed § 36.2, note that the applicability of rules to changed type certificates includes only those changes that may increase the noise exposure created by the airplane. As proposed, this provision would include applications for supplemental type certificates by operators or other persons as well as applications for amended type certificates by the holders of type certificates.

Proposed § 36.3 is drafted to ensure compliance with subsection (b)(3) of Public Law 90-411, which directs the Administrator of the FAA to "consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest." This is more fully discussed above.

Proposed § 36.101 refers to Appendix A, which contains the basic noise measurement procedures that the FAA believes to be necessary in obtaining the raw data from which conversion to Effective Perceived Noise Level in units of EPNdB can be made.

Proposed § 36.103 refers to Appendix B, which contains the procedures for converting measured noise into Effective Perceived Noise Level in units of EPNdB.

Appendix B contains material extracted from FAA Technical Report FAA-NO-68-34, entitled "Aircraft Noise Evaluation", dated September, 1968. The need for EPNdB as the required measure of subjective response is discussed above.

Section 36.201 contains the requirement that reduced noise levels be achieved. Public Law 90-411 provides that, in issuing regulations to protect the public from "unnecessary" aircraft noise, the Administrator shall "consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and appropriate for the 'particular type of aircraft * * *'. In Senate Report 1353, with respect to currently possible aircraft noise reductions, the Senate Commerce Committee stated that "within the limits of technology and economic feasibility, it is the view of the committee that the Federal Government must assure that the 'potential reductions are in fact realized'" (p. 3). The committee also indicated (p. 2) that its intent is that the standards imposed to stop the escalation of aircraft noise should "require the 'full application of noise reduction technology.'" As explained below, Appendix C of proposed Part 36 contains general maximum noise levels for transport category and turbojet powered airplanes as a class. While this class ceiling is an appropriate means of preventing the further escalation of aircraft noise, it has serious deficiencies in meeting the above-mentioned intent of Public Law 90-411. First, the values in Appendix C cannot be regarded as even approaching acceptable noise values in and of themselves. They are therefore fundamentally different from the airworthiness standards used in type certification. Second, since a class ceiling is also subject to the requirement of reasonableness, it can be no lower than would be appropriate for the noisiest type design within the class. Therefore, no reasonable class ceiling can provide a basis for the full application of noise reduction technology except with respect to the noisiest type design within the class. In short, no reasonable class ceiling can permit the FAA to act to ensure that potential noise reductions available in particular type designs are in fact realized. Yet it is only in the full application of noise reduction technology to particular type designs that the most significant reductions of aircraft noise at the source can be ensured. After considering all available regulatory means, the FAA believes that the best way to ensure the attainment of the maximum noise reductions that are economically reasonable, technologically practicable, and appropriate for each particular type design, is to supplement the general noise ceiling in Appendix C with a noise floor, or objective to be sought, and with a requirement incorporating the standard specified in the Public Law. Therefore, § 36.201 provides that the noise levels must be reduced to be as near to 80 EPNdB as is "economically reasonable, technologically practicable, and appropriate to the

particular type design." The ceiling values in Appendix C can provide valuable functions in defining a predictable noise limit for airport planning, for aircraft operators, and for other segments of aviation, and for Federal, State, and local governments for whom the prediction of aircraft noise is essential for rational planning for a total "systems approach" to aircraft noise reduction. However, the FAA cannot responsibly accept those values as satisfactory where further noise reductions are available and reasonable. Where those further reductions are available, are economically reasonable, technologically practical, and appropriate to the particular type design, the FAA cannot ignore them by waiting until all type designs are expected to be quiet enough to permit lowering the noise ceiling for the entire class. By then, of course, any type designs that could have been substantially quieter would have been approved, and aircraft produced under them, without the realization of the actually available noise reductions. It is not believed that such a result is consistent with Public Law 90-411.

The noise floor of 80 EPNdB is proposed as an objective to aim for, and to achieve where economically reasonable, technologically practicable, and appropriate to the particular type design. It is recognized that this objective will not be appropriate for many current type designs. However, this objective is important because it makes it clear to all applicants that no increment of noise above 80 EPNdB can be considered acceptable, in and of itself, where it can be eliminated practically and reasonably. This figure is proposed as a reasonable boundary between noise levels that are high enough to interfere with communications and to obstruct normal life in homes or other buildings that are not designed with specific acoustical objectives, and lower noise levels which, while not completely benign, nevertheless allow those activities to proceed. Where this goal can be reached in a given case, and can be justified as economically reasonable, technologically practical, and appropriate to the particular type design, the FAA does not intend to ignore this potential reduction.

In order to provide a specific frame of reference for determining whether a given noise reduction is economically reasonable, technologically practical, and appropriate to the particular type design, proposed § 36.203 specifies the particular noise sources, and corresponding noise reduction techniques, that will be considered by the FAA in making this determination.

While it is recognized that proposed § 36.203 provides considerably more specific guidelines than are provided in certain of the airworthiness standards for type certification, the FAA believes that such specificity is appropriate in order to assist in determining whether a given reduction of a given noise from a given source is appropriate for a given type design. Conversely, it is believed that the guidelines in § 36.203 are broad

enough to permit necessary design flexibility. For example, under § 36.203(d)(1), the applicant is forewarned that, for turbofan engines, forward radiated compressor whine must be considered. However, he is given latitude in the design or selection of types of "acoustical treatment" and in deciding whether "acoustical treatment" or "choked inlet" are appropriate means of noise reduction.

Since the application of noise standards will be a novel experience for many manufacturers, there may be some who feel that the standards in Part 36 should be supplemented with more specific requirements responsive to their individual type designs, at least during their first type certification programs under the new rules. The FAA agrees that this may be useful and that applicants should have this opportunity. Proposed § 21.16(c) would therefore provide for the issuance of special conditions applying the aircraft noise type certification standards of Part 36 to the applicant's particular type design. Unlike the current special conditions for airworthiness type certification, the noise special conditions would only be issued if requested by the applicant. Like the airworthiness special conditions, however, the noise special conditions would be issued in accordance with § 21.16(b), which provides, among other things, that they are issued as rules of particular applicability, after affording the applicant and other interested persons an opportunity to participate in the rule making.

In summary, Appendix C does not represent a moratorium on continued research to progressively lower the necessary noise levels in particular new type designs where economically reasonable, technologically practicable and appropriate to those particular type designs.

Section 36.301 provides the basis for generating operating procedures and other information for the flight crew, so that noise levels substantiated during type certification can be obtained in operation by making the information available to the flight crew in the Aircraft Flight Manual (§ 36.401).

Section 36.401 is necessary in order to provide the flight crew with operating procedures and other information necessary to permit the flight crew to obtain the full noise reduction possible for the aircraft, within the limits of safe operation. The information furnished under this section will enable the flight crew to know which combinations of weight and thrust will permit or prevent the obtaining of substantiated noise levels in operation. Note that, under § 36.401(b), the weight at which the takeoff noise test is complied with, if less than the airworthiness maximum weight, becomes the maximum weight of the aircraft and must be furnished, as such, in the operating limitations section of the Airplane Flight Manual. However, proposed § 36.203 makes it clear that no reduction in maximum weight will be required to achieve noise levels less than those in Appendix C.

In Appendix C, the following should be noted: Section C36.5 provides that the prescribed noise levels must be shown by flight test. It is not believed that other tests or analysis alone are adequate for this purpose. The "tradeoff" in § C36.5(b) is proposed in order to reflect the fact that total noise exposure is cumulative and that certain limited exceedances at certain measuring points are therefore acceptable if compensated by noise reductions at other measuring points. The "noise prediction allowance" in § C36.5(c) is proposed in order to provide a reasonable result in cases in which acceptable noise prediction techniques are used by the applicant but fail for reasons beyond control, and achieving the prescribed noise levels would not be economically reasonable, technologically practicable, or appropriate under the particular type certification program. While § C36.5(c) allows a reasonable result by permitting the issue of a type certificate, its values exceed, those proposed in international discussions. Therefore, it is proposed to limit the statement of noise compliance, on the airworthiness certificate, to airplanes that fully comply with paragraphs (a) and (b) of § 36.5. Otherwise the statement of noise compliance would not have a precise meaning for international purposes. While the FAA would require noise approval of the type design, it is in the interests of international standardization, not of FAA requirements, that separate statements of noise compliance would be issued for each aircraft individually. If international agreement later requires, that statement could of course also be issued for aircraft using the noise prediction allowance.

During discussions with industry, the matter of the takeoff speed to be required under Appendix C received considerable attention. On the one hand, there are factors which would tend to lower the desirable speed. These include the need to have the capability of minimizing the noise-exposed areas on the ground where this capability can be used to alleviate local noise problems. This capability is obtained through decreasing airplane speed by increasing climb angles. On the other hand, the margin of safety, which is needed to account for gusts, windstorms, maneuvering, pilot distraction, and emergencies, increases as speed increases. The FAA believes that these conflicting interests should result in a speed between 10 and 20 knots above the speed V_L . However, further industry comment is necessary in order to arrive at a satisfactory specific speed within that range. This notice therefore specifies that range of speeds (§ C36.7).

While this notice is limited to those aircraft most directly related to the current escalation of aircraft noise, the FAA is studying the relevance of the concepts in this notice to other aircraft such as small turbine propeller powered and reciprocating engine powered airplanes, vertical and short takeoff and landing aircraft (including rotorcraft), and supersonic aircraft. The FAA is also studying the relevance of the concepts in this notice to aircraft now in service, par-

ticularly subsonic transport category and subsonic turbojet powered airplanes. As these studies proceed, further proposals will be issued for public comment.

The FAA is also studying various types of operating rules for obtaining optimum noise levels around airports. Where such study indicates that appropriate rules can be developed, they will be issued as a notice of proposed rule making for public comment.

Finally, it should be noted that aircraft type certificated under the noise standards of proposed Part 36 may be subject to further noise reduction in the form of rules applicable to operators, when appropriate operating rules can be developed.

In summary, the proposals in this notice should be placed in broad perspective. This notice does not promise the immediate achievement of socially acceptable noise levels in airport neighborhoods where the responsible State or local governments have not, or cannot, act to achieve land use compatibility for their existing or planned airports. Further, this notice does not promise a Federal substitute for the actions that airport operators, as proprietors, can take and have traditionally and responsibly taken, to make their airports fit the particular needs of their locales, such as establishing the conditions under which their airports and airport facilities may be used, including the issuance of specific noise ceilings. These limitations on this notice reflect the statement of the Senate Commerce Committee, concerning Public Law 90-411, that "it is not the intent of the committee in recommending this legislation to effect any change in the existing apportionment of powers between the Federal and State and local governments * * *. The proposed legislation will not affect the rights of a State or local public agency, as the proprietor of an airport, from issuing regulations or establishing requirements as to the permissible level of noise which can be created by aircraft using the airport * * *. Just as an airport owner is responsible for deciding how long the runways will be, so is the owner responsible for obtaining noise easements necessary to permit the landing and takeoff of the aircraft. The Federal Government is in no position to require an airport to accept service by larger aircraft and, for that purpose, to obtain longer runways. Likewise, the Federal Government is in no position to require an airport to accept service by noisier aircraft, and for that purpose to obtain additional noise easements. The issue is the service desired by the airport owner and the steps it is willing to take to obtain the service. In dealing with this issue, the Federal Government should not substitute its judgment for that of the States or elements of local government who, for the most part, own and operate our Nation's airports. The proposed legislation is not designed to do this and will not prevent airport proprietors from excluding any aircraft on the basis of noise considerations. Of course, the authority of units of local government to control the effects of aircraft noise through the

exercise of land use planning and zoning powers is not diminished by the bill."

In his statement to the Subcommittee on Transportation and Aeronautics of the Committee on Interstate and Foreign Commerce of the House of Representatives on November 15, 1967, in support of H.R. 3400 and S. 707, which led to Public Law 90-411, the Secretary of Transportation indicated that approaches involving more than local community actions might require further legislation. Thus, he stated "In the field of compatible land use, the Department is developing a computerized method of predicting aircraft noise exposure at airports. The methodology has been applied to three principal airports * * * and plans are underway to apply it to 29 additional airports. This, in turn, will now enable HUD to inventory the land use at these airports. This noise exposure forecast land-use inventory will then be applied to or be applicable by the balance of the airports. As a result, we shall for the first time have a precise grasp of the actual magnitude of the problems of compatible land use projected through 1975. It will be on the basis of this understanding that any necessary legislation will be drafted and submitted enabling the Federal Government to assist, at long last, local communities in making the environment of the airport neighborhood one in which noise from aircraft does not generate noise from an outraged citizenry."

In the meantime, this notice plays an important role by providing airport operators and State and local governments, as well as other concerned persons who are responsible for local noise control planning, with dependable, predictable noise parameters to be used as a basis for that planning. For example, local governments would be able to make administrative decisions covering zoning, general urban planning, highway and other transit systems, schools, hospitals, parks, and recreation facilities on the basis of noise ceiling specified in the type certification regulations. Airport operators, as proprietors, would be able to base their actions on known noise levels substantiated during type certification. But, under this notice, responsibility for all local noise control planning remains exclusively local.

In consideration of the foregoing, it is proposed to amend Subchapter C of Chapter I of Title 14 of the Code of Federal Regulations as hereinafter set forth:

A. Amend Part 21 of the Federal Aviation Regulations as follows:

1. Add a new § 21.16(c) to read:

§ 21.16 Special conditions.

(c) If requested by the applicant, special conditions applying the aircraft noise type certification standards of Part 36 to the applicant's particular type design are issued by the Administrator in accordance with paragraph (b) of this section.

2. Amend § 21.17(a) by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2."

3. Amend § 21.21(b) by deleting the word "airworthiness" wherever it appears, and by inserting the word "airworthiness," in subparagraph (b)(1), between the words "that any" and the words "provisions not."

4. Amend § 21.29(a)(1) to read:

§ 21.29 Issue of Type Certificate: Import Products.

(1) If the country in which the product was manufactured certifies that the product has been examined, tested, and found to meet the applicable aircraft noise standards of this subchapter, and has been examined, tested, and found to meet the applicable airworthiness requirements of—

5. Amend § 21.31(c) by inserting the words "or other required characteristics" between the words "the airworthiness" and the words "of later products."

6. Amend § 21.33(b)(1) by deleting the word "airworthiness."

7. Amend § 21.93 by designating the current text as paragraph (a), and by adding a new paragraph (b) to read:

§ 21.93 Classification of changes in type design.

(b) For the purpose of this subpart, and Subpart E, all changes that may increase the noise exposure created by a Transport Category or turbojet powered airplane are classified as "major changes" irrespective of their effect on the airworthiness of the airplane.

8. Amend § 21.101(a) by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2".

9. Amend § 21.115 by deleting the word "airworthiness" in the Section heading and in paragraph (a).

10. Add a new § 21.183(e) to read:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, and transport category aircraft.

(e) *Statement of noise compliance.* An applicant for a standard airworthiness certificate for subsonic transport category or subsonic turbojet powered airplane that meets the noise level standards of Appendix C of Part 36 without using the noise prediction allowance of § C36.5(c) is issued a statement of noise compliance on that certificate.

B. Add the following new Part 36 of the Federal Aviation Regulations:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE CERTIFICATION

Subpart A—General

Sec.	
36.1	Applicability.
36.2	Special retroactive requirements.
36.3	Compatibility with airworthiness requirements.

Subpart B—Noise Measurement and Evaluation

36.101	Noise measurement.
36.103	Noise evaluation.

Subpart C—Noise Levels and Airplane Flight Manual

Sec.	
36.201	Required noise reduction.
36.203	Noise sources and means of noise reduction.
36.301	Operating procedures and other information.
36.401	Airplane Flight Manual.

Appendix A—Aircraft noise measurement under § 36.101

Appendix B—Noise evaluation under § 36.103

Appendix C—General noise limits for transport category and turbojet powered airplanes under § 36.201

Subpart A—General

§ 36.1 Applicability.

(a) This part prescribes noise standards for the issue of type certificates, and changes to those certificates that may increase the noise exposure created by the airplane, for subsonic transport category airplanes and for subsonic turbojet powered airplanes.

(b) Each person who applies under Part 21 of this chapter for a type certificate, and each person who applies for a change to a type certificate that may increase the noise exposure created by the airplane, must show compliance with the applicable requirements in this part.

§ 36.2 Special retroactive requirements.

Notwithstanding §§ 21.17 and 21.101 of this chapter, and irrespective of the date of application, each applicant for a new type certificate and each person who applies for a change to a type certificate that may increase the noise exposure created by the aircraft must show compliance with the applicable provisions of this part.

§ 36.3 Compatibility with airworthiness requirements.

It must be shown that the airplane meets the airworthiness regulations constituting the type certification basis of the airplane under all conditions in which compliance with this part is shown, and that all operating procedures and other information for the flight crew approved under this part are consistent with the airworthiness regulations constituting the type certification basis of the airplane.

Subpart B—Noise Measurement and Evaluation

§ 36.101 Noise measurement.

The noise generated by the airplane must be measured under Appendix A of this part or under an approved equivalent procedure.

§ 36.103 Noise evaluation.

Noise measurement information obtained under § 36.101 must be evaluated under Appendix B of this part or under an approved equivalent procedure.

Subpart C—Noise Levels and Airplane Flight Manual

§ 36.201 Required noise reductions.

(a) For applications made before the effective date of this part for airplanes

that have turbine engines with bypass ratios of 2 or more, and for all applications made on or after the effective date of this part, it must be shown that the noise levels of the airplane, measured and evaluated as prescribed in §§ 36.101 and 36.103, at the measuring points prescribed in Appendix C of this part—

(1) Are reduced to be as near to 80 EPNdB as is economically reasonable; technologically practical, and appropriate to the particular type design, including consideration of the noise sources and means of noise reduction prescribed in § 36.203; and

(2) Do not exceed the general noise limits prescribed in Appendix C of this part.

(b) For applications made after (the publication date of this notice) but before the effective date of this part, the noise levels of airplanes that do not have turbine engines with bypass ratios of 2 or more must conform to paragraph (a)(1) of this section.

(c) For applications made before (the publication date of this notice) for airplanes that do not have turbine engines with bypass ratios of 2 or more, the lowest noise levels, reasonably obtainable through the use of the operating procedures and other information for the flight crew developed under § 36.301, must be obtained.

§ 36.203 Noise sources and means of noise reduction.

(a) *General.* No reduction in maximum weight is required for achieving noise levels less than those in Appendix C. However, in determining whether those lesser noise levels are economically reasonable, technologically practicable, and appropriate to the particular type design, in addition to aerodynamic considerations, the noise sources and means of noise reduction in this section must also be considered in complying with the noise reduction requirements of § 36.201.

(b) *Reciprocating engine powered airplanes.* The following noise sources and corresponding means of noise reduction must be considered for reciprocating engine powered airplanes:

(1) Propeller noise, and its reduction by selection of appropriate blade design and tip speed.

(2) Exhaust noise, and its reduction by the use of mufflers.

(c) *Turbine propeller powered airplanes.* The following noise sources and corresponding means of noise reduction must be considered for turbine propeller powered airplanes:

(1) Propeller noise, and its reduction by selection of appropriate blade design and tip speed.

(2) Forward radiated compressor noise, and its reduction by acoustical treatment.

(d) *Turbojet powered airplanes without turbofans.* The following noise sources and corresponding means of noise reduction must be considered for turbojet powered airplanes without turbofans:

(1) Forward radiated compressor noise, and its reduction by acoustical

treatment or by choked inlet, as applicable.

(2) Jet exhaust noise, and its reduction by jet noise suppressors.

(3) Turbine noise, and its reduction by acoustical treatment.

(e) Turbojet powered airplanes with turbofans. The following noise sources and corresponding means of noise reduction must be considered for turbojet powered airplanes with turbofans:

(1) Forward radiated compressor and fan noise, and its reduction by acoustical treatment or choked inlet, as applicable;

(2) Aft radiated fan noise, and its reduction by acoustical treatment.

(3) Primary and secondary jet exhaust noise, and its reduction by jet suppressors and selection of the bypass ratio of the engine.

(4) Turbine noise, and its reduction by acoustical treatment.

§ 36.301 Operating procedures and other information.

Operating procedures, and any other information for the flight crew that is necessary for obtaining the noise reductions prescribed in § 36.201 must be developed, including the effect of all ranges of weight and thrust for which approval under this part is requested.

§ 36.401 Airplane Flight Manual.

(a) The approved portion of the Airplane Flight Manual must contain all operating procedures and other information approved under § 36.301, and the effect of all ranges of weight and thrust for which approval under this part is requested.

(b) If the weight used in meeting the takeoff noise requirements of this part is less than the maximum weight established under the applicable airworthiness requirements, that lesser weight must be furnished, as the maximum weight, in the operating limitations section of the Airplane Flight Manual.

APPENDIX A—AIRCRAFT NOISE MEASUREMENT UNDER § 36.101

Section A36.1 Noise certification test and measurement conditions—(a) General. This section prescribes the conditions under which noise type certification tests must be conducted and the measurements procedures that must be used to measure the noise made by the aircraft for which the test is conducted.

(b) General test conditions. (1) Tests to show compliance with established noise type certification levels must consist of a series of takeoffs and landings during which measurements must be taken at the measuring points defined in Appendix C. The sideline noise measurements must also be made at symmetrical locations on each side of the runway. On each test takeoff, simultaneous measurements must be made at lateral measuring points on both sides of the runway and also at the takeoff flyover measuring point. If the height of the ground at each measuring point differs from that of the nearest point on the runway by more than 20 feet, corrections must be made as defined in § A36.3(c) of this appendix.

(2) Locations for measuring noise from an aircraft in flight must be surrounded by relatively flat terrain having no excessive sound absorption characteristics such as might be caused by thick, matted, or tall

grass, shrubs, or wooded areas. No obstructions which significantly influence the sound field from the aircraft may exist within a conical space above the measurement position, the cone being defined by an axis normal to the ground and by a half-angle 75° from this axis.

(3) The tests must be carried out under the following weather conditions:

- (i) No rain or other precipitation.
- (ii) Relative humidity not higher than 90 percent or lower than 30 percent.
- (iii) Ambient temperature not above ISA +15° C. at 10 meters above ground.
- (iv) Airport reported wind not above 10 knots at 10 meters above ground.
- (v) No temperature inversion or anomalous wind conditions that would significantly affect the noise level of the aircraft when the noise is recorded at the relevant measuring points.

(c) Aircraft operation. (1) The takeoff may be at a weight different from the weight at which noise certification is requested if the necessary effective perceived noise level correction does not exceed 2 EPNdB.

(2) The approach may be at a weight different from the design landing weight if the necessary effective perceived noise level correction does not exceed 1 EPNdB. Approved manufacturer's data may be used to determine the variation of effective perceived noise level, EPNL, with weight for both takeoff and approach.

(3) The sound pressure level correction (in any one-third octave band) to allow for the aircraft not passing vertically above the measuring point must be less than 3 dB for the takeoff test.

(4) The approach noise measurements must be made with the aircraft stabilized and following a $3^\circ \pm 0.5^\circ$ glide angle at proper approach power for maximum allowable landing flap setting. If the glide angle is different from 3° , the noise must be corrected by an approved method to be representative of a 3° glide angle. In addition:

- (i) The approach continued to a normal touchdown must be made at reference airspeed over the approach measurement point.
- (ii) The sound pressure level correction must be less than 3 dB (in any one-third octave band) to allow for the difference between 370 feet and the actual minimum distance of the aircraft's ILS antenna from the approach measuring point.

(5) The takeoff conditions must meet § C36.7 of Appendix C of this part.

(d) Measurements. (1) Position and performance data required to make the corrections referred to in § A36.3(c) must be automatically recorded at an acceptable sampling rate. The position of the aircraft must be recorded relative to the runway from a point 4 nautical miles from threshold to touchdown during the approach and up to 6 nautical miles from the start of roll during the takeoff. Measuring equipment must meet FAA standards.

(2) Position and performance data must be corrected, by the methods outlined in § A36.3(c) to, standard atmosphere at sea level, an ambient temperature of ISA +10° C., a relative humidity of 70 percent, and zero wind.

(3) Acoustic data must be corrected by the methods of § A36.3 to standard atmosphere at sea level, an ambient temperature of ISA +10° C., a relative humidity of 70 percent. Acoustic data corrections must also be made for a minimum distance of 370 feet between the aircraft's approach path and the approach measuring point, a takeoff path vertically above the flyover measuring point and for differences of more than 20 feet in elevation of measuring locations relative to the elevation of the nearest point of the runway.

(4) The airport tower or another approved facility must be used as the central location at which measurements of atmospheric parameters are representative of those conditions existing over the geographical area in which aircraft noise measurements are made. However, the surface wind velocity and temperature must be measured near microphone level at the approach, sideline, and takeoff measurement points and the tests must be carried out only if the conditions conform to § A36.1(b)(3).

(5) Enough sideline measurement stations must be used during tests so that the maximum sideline noise is clearly defined with respect to location and level.

(6) Three average figures and their 90 percent confidence limits must be produced, each being the arithmetic average of the standardized and corrected acoustical measurements for all valid test runs at the approach measuring point, the pair of lateral measuring points, and the flyover measuring point respectively. If more than one acoustic measurement system is used at any single measurement location, the resulting data for each test run must be averaged as a single measurement.

(7) The minimum sample size acceptable for each of the three certification measuring points is six. The samples must be large enough to establish statistically for each of the three average noise certification levels a 90 percent confidence limit not exceeding ± 1.5 EPNdB. No test results may be omitted from the average process unless otherwise specified by the FAA.

(8) The average figures and their 90 percent confidence limits obtained by the foregoing process must be those by which the noise performance of the aircraft is assessed against the noise certification criteria, and must be recorded on the certificate.

(9) During any individual test run, the climb gradient actually achieved may be less than 6 percent provided that: (a) The difference is not more than 0.25 percent, and (b) the average climb gradient for all the runs, when corrected to the standard condition, exceeds 6 percent. If either or both of these conditions are not met, the corresponding flyover noise measurement is not valid.

Section A36.2 Measurement equipment and techniques—(a) General. Sound pressure level data for noise type certification purposes must be obtained in accordance with approved acoustical equipment and measurement practices.

(b) Measurement equipment, acoustical. (1) The acoustical measurement system must consist of approved equipment typically equivalent to the following:

(i) A microphone system with frequency response compatible with measurement and analysis system accuracy as stated in paragraph (c) of this section.

(ii) A tripod or similar microphone mounting that minimizes interference with the sound being measured.

(iii) A tape recorder with record-playback characteristics, frequency response and dynamic range compatible with the response and accuracy requirements of paragraph (c) of this section.

(iv) An acoustic calibrator using sine wave or broadband noise or known sound pressure level. If broadband noise is used, the signal must be described in terms of its average and maximum rms value for a non-overload signal level.

(v) One-third octave band filters.

(vi) An output indicating device for analysis of signals providing an rms indication of the signal, in accordance with the accuracy requirements of paragraph (c) of this section.

(c) Equipment response and calibration. (1) The combined recording and reproduc-

ing system must be calibrated within ± 1 dB to measure the sound pressure level of a plane progressive wide-band (45 to 11,200 Hz) sound wave propagating in the direction of the axis of calibration of the microphone.

(2) The response of the combined recording and reproducing system to a plane progressive sinusoidal sound wave of constant amplitude, must be constant within ± 3 dB over the frequency range of 45 to 11,200 Hz.

(3) The sensitivity of the microphone to plane sound waves arriving from any direction within 45° of the axis of calibration may not differ by more than 1 dB below 1,000 Hz, 2 dB between 1,000 and 4,000 Hz, and 4 dB between 4,000 and 11,200 Hz from the sensitivity to plane sound waves arriving along the axis of calibration direction.

(4) The dynamic response characteristics of the indicating meter, graphic level recorder, digital system or other readout device and its associated systems must incorporate a signal averaging time of approximately 80 to 100 milliseconds. This response may be obtained with the use of a commercial graphic level recorder equipped with a 50 dB logarithmic potentiometer and having settings of 10 Hz for the pen lower limiting frequency, and a writing speed of about 16 dB/sec.

(5) The accuracy of measuring the random noise portion of a flyover noise signal in one-third octave bands is limited at low frequencies by the data sample length. The product of the filter bandwidth (in Hz) times the sample length (in seconds) must be 10 or greater and the maximum sample length may not exceed 1 second.

(6) The microphone must be calibrated in accordance with approved practices and standards and must include the angular range requirements of paragraph (c)(3) of this section. These requirements may be satisfied by periodic reciprocity calibrations with the addition of corrections for diffraction effects to obtain the corrected free-field response. If wind screens are used, appropriate corrections must be made for their effects upon sound attenuation and directivity as a function of frequency.

(7) The complete electronic system must be subjected to a frequency and amplitude electrical calibration by the use of a sinusoidal signal of known amplitude at frequencies covering the range of 45 to 11,200 Hz and at amplitudes covering the range of signal levels furnished by the microphone. Broadband signals of known amplitude may also be used if the signal is described in terms of its average and maximum rms values for a non-overload signal level.

(d) *Measurement techniques.* (1) For acoustical measurements of aircraft flights directly overhead, the microphone must be oriented so that the axes of rotation of their diaphragms are parallel to the ground and perpendicular to the vertical plane containing the flight path. For aircraft flights not directly overhead, these microphones must be oriented so that the sound emanating from the airplane along its path impinges on the diaphragm as close to grazing incidence as possible. Other orientations of microphones may be used if made in accordance with approved practices and standards. The microphones must be placed so that their sensing elements are approximately 1.2 meters above ground.

(2) Immediately prior to and after each test, a recorded acoustic calibration of the system must be made in the field with an acoustic calibrator for the two purposes of checking system sensitivity and providing an acoustic reference level for the analysis of the sound level data recorded on magnetic tape.

(3) For the purpose of minimizing equipment or operator error, field calibrations

must be supplemented with the use of an insert voltage device to place a known signal at the input of the microphone, just prior to and after recording aircraft noise data.

(4) The ambient noise, including both acoustical background and electrical noise of the measurement systems, must be recorded and determined in the test area with the system gain set at levels which will be used for aircraft noise measurements. The maximum perceived noise level of the ambient noise must be at least 30 PNdB below the maximum perceived noise level of the aircraft sound.

(5) The gain of the tape recorder must be adjusted so that the record level is within the linear operating characteristics of the tape recorder for peaks in the aircraft noise signal. For this purpose, the maximum rms recording level must be at least 10 dB below the 3 percent distortion level of the recorder.

Section A36.3 *Reporting and correcting measured data*—(a) *General.* Data representing physical measurements or corrections to measured data must be recorded in permanent form and appended to the record except that corrections to measurements for normal equipment response deviations need not be reported. All other corrections must be approved by the PAA. Estimates must be made of the individual errors inherent in each of the operations employed in obtaining the final data.

(b) *Data Reporting.* (1) Measured and corrected sound pressure levels must be presented in one-third octave band levels obtained with equipment conforming to the standards described in § A36.2.

(2) The type of equipment used for measurement and analysis of all acoustic aircraft performance and meteorological data must be reported.

(3) The following environmental data must be reported:

(i) Air temperature in degrees Celsius and relative humidity in percent, measured at hourly intervals during the test period at the observation points prescribed in § A36.1(d)(4).

(ii) Maximum, minimum, and average wind in knots per hour and its direction at hourly intervals during the test period at the observation points recommended in § A36.1(d)(4).

(iii) Atmospheric pressure measured at a central location in the test area.

(iv) Comments on local topography, ground cover and events that might interfere with sound recordings.

(4) The following aircraft information must be reported:

(i) Type, model, and serial numbers (if any) of aircraft and engines.

(ii) Gross dimensions of aircraft and location of engines.

(iii) Aircraft gross weight averaged for each test run.

(iv) Aircraft configuration such as flap and landing gear positions.

(v) Airspeed in knots.

(vi) Engine performance in pounds of net thrust, engine pressure ratios, jet exit temperatures, and fan or compressor shaft rev./min. as indicated by cockpit instruments and manufacturer's data must be recorded.

(vii) Aircraft height in feet must be verified by a method independent of cockpit instrumentation such as radar tracking theodolite or approved photographic techniques.

(5) Aircraft speed, height, and engine parameters must be recorded at an acceptable sampling rate. Lateral position relative to the extended centerline of the runway, configuration, and gross weight must be reported.

(c) *Data corrections.* (1) The aircraft position along the flight path must be related to the noise recorded at the measuring station by the use of synchronizing signals so that any one-third octave band sound pressure level determined at a given instant can be related to a time of emission at the source thus determining the propagation distance that the noise must travel to reach the measuring site. The measured flight path must be corrected by an amount equal to the difference between the applicant's predicted flight paths for the test conditions and for the conditions applicable to noise type certification. Necessary corrections relating to aircraft flight path or performance may be derived from approved data. The source noise may be corrected from approved data, for the difference between measured and corrected engine conditions, together with appropriate allowances for sound attenuation with distance.

(2) The correction for variation of sound attenuation in the atmosphere due to pressure, temperature, and humidity variations must be approved.

(3) The flight path correction procedure for approach noise must be made with reference to a fixed aircraft height of 370 feet. The noise source must be corrected for a glide angle of 3° .

(4) If aircraft sound pressure levels do not exceed the background sound pressure levels by at least 10 dB in any one-third octave band, approved corrections for the contribution of background sound pressure level to the observed sound pressure level must be applied.

(5) The procedure for determining the noise duration correction must be applied to the original recordings as defined in Appendix B, but the duration correction so determined must be increased by 10 log (altitude under standard conditions/measured altitude).

APPENDIX B—NOISE EVALUATION UNDER § 36.103

Section B36.1 *General.* The procedures in this appendix must be used to determine the noise evaluation quantity designated as effective perceived noise level, EPNL under § 36.103. These procedures use the physical properties of noise measured as prescribed by Appendix A and accomplish the following:

(a) Calculation of instantaneous perceived noise levels for each noise spectrum occurring at consecutive increments of time during the aircraft flyover. The calculation method uses 24 one-third octave bands of sound pressure level.

(b) Calculation of a correction factor for each spectrum to account for the subjective response to pronounced irregularities such as tones. Hereafter, the spectral irregularities will be referred to as "tones" and the correction as a "tone correction factor."

(c) Addition of the tone correction factor to the perceived noise level to obtain tone corrected perceived noise levels at given instants of time, with the instantaneous values of tone corrected perceived noise level being plotted with respect to time and the maximum value being determined.

(d) Calculation of a duration correction factor by integration under the curve of tone corrected perceived noise level versus time or by an alternate approved method.

(e) Determination of effective perceived noise level by the algebraic sum of the maximum tone corrected perceived noise level and the duration correction factor.

Section B36.2 *Symbols and units.* As used in this appendix, the following symbols and units have the following meanings:

Symbol	Unit	Meaning
ant		<i>Antilogarithm to the Base 10.</i>
C	dB	<i>Tone Correction.</i> The factor to be added to PNL to account for the presence of spectral irregularities such as tones.
d	sec	<i>Duration Time.</i> The length of the significant noise time history being the time interval between the limits of t(1) and t(2) to the nearest second.
D	dB	<i>Duration Correction.</i> The factor to be added to PNLM to account for the time history of the noise.
EPNL	EPNdB	<i>Effective Perceived Noise Level.</i> The value of PNL adjusted for both the presence of discrete frequencies and the time history. (The unit EPNdB is used instead of the unit dB.)
f(0)	Hz	<i>Frequency.</i> The geometrical mean frequency in the i-th one-third octave band.
F(0)	dB	<i>Delta-dB.</i> The difference between the original and background sound pressure levels in the i-th one-third octave band.
h	dB	<i>dB-Down.</i> The level to be subtracted from PNLM that defines the significant noise time history.
(0)		<i>Frequency Bank Index.</i> The numerical indicator that denotes any one of the 24 one-third octave bands with center frequencies from 50 to 10,000 Hz.
(k)		<i>Time Increment Index.</i> The numerical indicator that denotes the number of equal time increments that have elapsed from a reference zero.
log		<i>Logarithm to the Base 10.</i>
log n(0)		<i>Noise Discontinuity Coordinate.</i> The log n value of the intersection point of the straight lines representing the variation of SPL with log n.
M(1) M(2)		<i>Noise Intersect Slope.</i> The reciprocals of the slopes of the straight lines representing the variation of SPL with log n.
n(i)	noy	<i>Perceived Noisiness.</i> The perceived noisiness at a given instant of time that occurs in the i-th one-third octave band.
n	noy	<i>Maximum Perceived Noisiness.</i> The maximum value of all of the 24 values of n(i) that occurs at a given instant of time.
N	noy	<i>Total Perceived Noisiness.</i> The total perceived noisiness at any given instant of time calculated from the 24-instantaneous values of n(i).

Symbol	Unit	Meaning
OASPL	dB	<i>Overall Sound Pressure Level.</i> The sound pressure level that occurs at a given instant of time over all of the 24 one-third octave bands from 50 to 10,000 Hz.
p(0), p(2)		<i>Noise Slope.</i> The slopes of the straight lines representing the variation of SPL with log n.
PNL(k)	PNdB	<i>Perceived Noise Level.</i> The perceived noise level at the k-th increment of time calculated from the 24-instantaneous values of SPL(i). (The unit PNdB is used instead of the unit dB.)
PNLM	PNdB	<i>Maximum Perceived Noise Level.</i> The maximum value of PNL(k) which occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
PNLP	PNdB	<i>Peak Perceived Noise Level.</i> The perceived noise level computed from the highest levels reached in each of the one-third octave bands irrespective of time. It is commonly referred to as composite perceived noise level. (The unit PNdB is used instead of the unit dB.)
PNLT(k)	PNdB	<i>Tone Corrected Perceived Noise Level.</i> The value of PNL adjusted for the presence of discrete frequencies that occurs at the k-th increment of time. (The unit PNdB is used instead of the unit dB.)
PNLTM	PNdB	<i>Maximum Tone Corrected Perceived Noise Level.</i> The maximum value of PNLT(k) which occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
s(i)	dB	<i>Slope of Sound Pressure Level.</i> The change in level between adjacent one-third octave band pressure levels at the i-th band.
Δs(i)	dB	<i>Change in Slope of Sound Pressure Level.</i>
s'(i)	dB	<i>Adjusted Slope of Sound Pressure Level.</i> The change in level between adjacent adjusted one-third octave band sound pressure levels at the i-th band.
s̄(0)	dB	<i>Average Slope of Sound Pressure Level.</i>
SPL(0)	dB	<i>Noise Discontinuity Coordinate.</i> The SPL value of the intersection point of the straight lines representing the variation of SPL with log n.
SPL(1) SPL(2)	dB	<i>Noise Intercept.</i> The intercepts on the SPL-axis of the straight lines representing the variation of SPL with log n.

Symbol	Unit	Meaning
SPL(0)	dB	<i>Sound Pressure Level.</i> The sound pressure level at a given instant of time that occurs in the i-th one-third octave band.
SPL'(0)	dB	<i>Adjusted Sound Pressure Level.</i> The first approximation to background level in the i-th one-third octave band.
SPL''(0)	dB	<i>Background Sound Pressure Level.</i> The final approximation to background level in the i-th one-third octave band.
t	sec	<i>Elapsed Time.</i> The length of time measured from a reference zero.
t(1) t(2)	sec	<i>Time Limit.</i> The beginning and end of the significant noise time history defined by h.
Δt	sec	<i>Time Increment.</i> The equal increments of time for which PNLT(k) are calculated.
T	sec	<i>Normalizing Time Constant.</i> The length of time used as a reference in the integration method for computing duration corrections.

Section B36.3 *Perceived noise level.* Instantaneous perceived noise level, PNL, must be calculated as follows:

Step 1.

Convert each measured one-third octave band sound pressure level from 50 to 10,000 Hz, SPL(i), that occurs at any given instant of time to perceived noisiness, n(i), by reference to Table 3.1.

Step 2.

The noy values, n(i), found in Step 1 must be combined as prescribed by the following formula:

$$N = n + 0.15 \left\{ \sum_{i=1}^{24} n(i) \right\} - n$$

$$= 0.85n + 0.15 \sum_{i=1}^{24} n(i) \quad (3.1)$$

where n is the number of noys in the noisiest band and N is the total noy value.

Step 3.

The total perceived noisiness, N, must be converted into perceived noise level, PNL, by means of the following formula:

$$PNL = 40 + 33.3 \log N \quad (3.2)$$

which is plotted in Figure 3.1. PNL may also be obtained by choosing N in the 1,000 Hz column of Table 3.1 and reading the corresponding value of SPL which, at 1,000 Hz, is equal to PNL.

SPL
dB

One-Third Octave Band Center Frequencies F, HZ

50 63 80 100 125 160 200 250 315 400 500 630 800 1000 1250 1600 2000 2500 3150 4000 5000 6300 8000 10000

Table 3.1 NOYs As a Function of Sound Pressure Level.

Table with 25 columns (frequencies) and 25 rows (NOYs). Values range from 1.00 to 1000.00. The table is a grid of numerical data points.

R-9, T-6, 22-NOV 1967

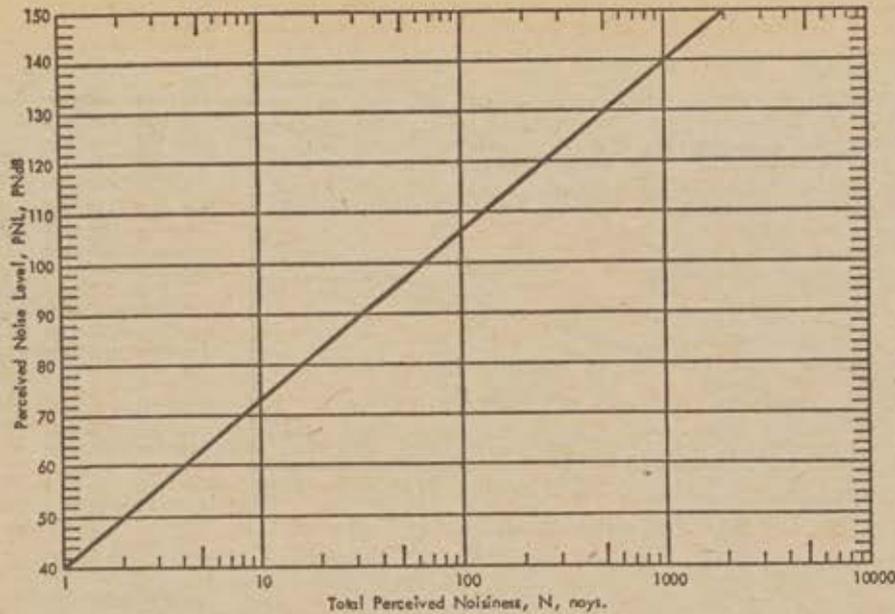


Figure 3.1 Perceived Noise Level as a Function of Noys.

Section B36.4 *Tone correction.* Noise having pronounced irregularities in the spectrum (for example, discrete frequency components or tones), must be adjusted by the correction factor C calculated as follows:

Step 1.

Starting with the measured sound pressure level in the 80 Hz one-third octave band (band number 3), calculate the changes in level (or "slopes") in the remainder of the 24 bands as follows:

$$s(3) = \text{no value} \quad (4.1)$$

$$s(4) = \text{SPL}(4) - \text{SPL}(3) \quad (4.2)$$

$$\dots$$

$$\dots$$

$$s(1) = \text{SPL}(1) - \text{SPL}(1-1) \quad (4.3)$$

$$\dots$$

$$\dots$$

$$s(24) = \text{SPL}(24) - \text{SPL}(23) \quad (4.4)$$

Step 2.

Encircle the value of the slope $s(1)$ where the absolute value of the change in slope is greater than five; that is, where

$$|\Delta s(1)| = |s(1) - s(1-1)| > 5 \quad (4.5)$$

Step 3.

(a) If the encircled value of the slope $s(1)$ is positive and algebraically greater than the slope $s(1-1)$, encircle the level $\text{SPL}(1)$.

(b) If the encircled value of the slope $s(1)$ is zero or negative and the slope $s(1-1)$ is positive, encircle the level $\text{SPL}(1-1)$.

(c) For all other cases, no level is to be encircled.

Step 4.

Omit all $\text{SPL}(1)$ encircled in Step 3 and compute new levels as follows:

(a) For nonencircled levels, let the new levels equal the original levels,

$$\text{SPL}'(1) = \text{SPL}(1) \quad (4.6)$$

(b) For encircled levels, let the new level equal the arithmetic average of the preceding and following levels,

$$\text{SPL}'(1) = \frac{1}{2} [\text{SPL}(1-1) + \text{SPL}(1+1)] \quad (4.7)$$

(c) If the level in the highest frequency band is encircled, let the new level equal

$$\text{SPL}'(24) = \text{SPL}(23) + s(24) \quad (4.8)$$

Step 5.

Recompute the new slopes including one for an imaginary 25th band as follows:

$$s'(3) = s'(4) \quad (4.9)$$

$$s'(4) = \text{SPL}'(4) - \text{SPL}'(3) \quad (4.10)$$

$$\dots$$

$$\dots$$

$$s'(1) = \text{SPL}'(1) - \text{SPL}'(1-1) \quad (4.11)$$

$$\dots$$

$$\dots$$

$$s'(24) = \text{SPL}'(24) - \text{SPL}'(23) \quad (4.12)$$

$$s'(25) = s'(24) \quad (4.13)$$

Step 6.

Compute the arithmetic average of the three adjacent slopes as follows:

$$\bar{s}(1) = \frac{1}{3} [s'(1) + s'(1+1) + s'(1+2)] \quad (4.14)$$

Step 7.

Compute final adjusted levels by beginning with band number 3 and proceeding to band number 24 as follows:

$$\text{SPL}''(3) = \text{SPL}(3) \quad (4.15)$$

$$\text{SPL}''(4) = \text{SPL}''(3) + \bar{s}(3) \quad (4.16)$$

$$\dots$$

$$\dots$$

$$\text{SPL}''(1) = \text{SPL}''(1-1) + \bar{s}(1-1) \quad (4.17)$$

$$\dots$$

$$\dots$$

$$\text{SPL}''(24) = \text{SPL}''(23) + \bar{s}(23) \quad (4.18)$$

Step 8.

Calculate the difference between the original and adjusted levels as follows:

$$F(1) = \text{SPL}(1) - \text{SPL}''(1) \quad (4.19)$$

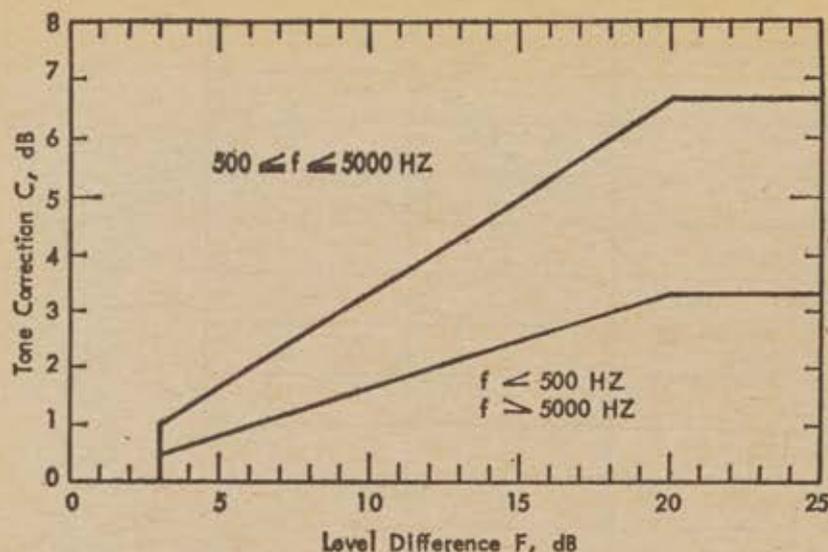
and note only values greater than zero.

Step 9.

Tone correction levels C must be determined for any one-third octave band in accordance with Table 4.1.

Step 10.

The maximum value of C determined in Step 9 defines the tone correction that must be added to the perceived noise level PNL to obtain the tone corrected perceived noise level PNL_T.



obvious equation for PNL_T as a function of t . Consequently, Equation (6.1) can be rewritten with a summation sign instead of the integral sign as follows:

$$D = 10 \log \left[\frac{d/\Delta t}{\sum_{k=0}^{2d} \text{ant} [\text{PNLT}(k)/10]} \right] - \text{PNLTM} \quad (6.2)$$

where Δt is the equal increment of time for which PNL_T is calculated and PNL_T(k) is the value of PNL_T at the k -th increment of time.

The following values are considered representative of the current state-of-the-art for the integration procedure and are presented as basic requirements:

$$T = 10 \text{ sec} \quad (6.3)$$

$$\Delta t = 0.5 \text{ sec} \quad (6.4)$$

$$h = 10 \text{ dB} \quad (6.5)$$

Using the above values, Equation (6.2) becomes

$$D = 10 \log \left[\sum_{k=0}^{2d} \text{ant} [\text{PNLT}(k)/10] \right] - \text{PNLTM} - 13 \quad (6.6)$$

where the integer d is the duration time defined by the 10 dB-down points.

The duration time, d , must equal the difference between the initial and final times, $t(1)$ and $t(2)$, for which PNL_T is equal to or greater than PNL_{TM} minus 10 PNdB.

If the value of PNL_T at the 10 dB-down points is 80 PNdB or less, the value of d may be taken as the time interval between the initial and final times for which PNL_T equals 80 PNdB.

Section B36.7 *Approximate duration correction*. The alternative procedures in this section are simpler to use than those in § B36.6 but yield, in general, larger duration correction values.

The approximate duration correction D is defined by the expression:

$$D = 10 \log (d/T) \quad (7.1)$$

where d is the time interval between the limits of $t(1)$ and $t(2)$ during which PNL_T is within a specified value h of PNL_{TM} and T is a normalizing time constant. The following values are considered representative of the current state-of-the-art for the approximate procedure and must be used:

$$T = 15 \text{ sec} \quad (7.2)$$

$$h = 10 \text{ dB} \quad (7.3)$$

Using the above values, Equation (7.1) becomes

$$D = 10 \log (d/15) \quad (7.4)$$

where d is the duration time defined by the 10 dB-down points. All other conditions on d are the same as for the integrated duration correction procedure.

Section B36.8 *Effective perceived noise level*. The total subjective effect of an aircraft flyover is designated "effective perceived noise level," EPNL, and is equal to the algebraic sum of the maximum value of the tone corrected perceived noise level, PNL_{TM}, and the duration correction, D . That is,

$$\text{EPNL} = \text{PNLTM} + D \quad (8.1)$$

where PNL_{TM} and D are calculated under §§ B36.3 through B36.7.

If the integrated calculation procedure is used, Equation (8.1) can be rewritten by substituting Equation (6.6) for D ; that is,

$$\text{EPNL} = 10 \log \left[\sum_{k=0}^{2d} \text{ant} [\text{PNLT}(k)/10] \right] - 13 \quad (8.2)$$

Frequency f , HZ	Level Difference F , dB	Tone Correction C , dB
$50 \leq f < 500$	$F < 3$ $3 \leq F < 20$ $20 \leq F$	0 $F/6$ $3 \frac{1}{3}$
$500 \leq f < 5000$	$F < 3$ $3 \leq F < 20$ $20 \leq F$	0 $F/3$ $6 \frac{2}{3}$
$5000 \leq f < 10000$	$F < 3$ $3 \leq F < 20$ $20 \leq F$	0 $F/6$ $3 \frac{1}{3}$

Table 4.1 Tone Correction Factors

Section B36.5 *Maximum tone corrected perceived noise level*. The maximum tone corrected perceived noise level, PNL_{TM}, is the maximum value determined from a smooth curve of the values of the tone corrected perceived noise level, PNL_T, calculated in accordance with the procedure of § B36.4, plotted against the flyover time, t . Half second time intervals, Δt , will usually be small enough to obtain a satisfactory noise time history.

If there are no pronounced irregularities in the spectrum, then the procedure of § B36.4 would be redundant since PNL_T would be identically equal to PNL. For this case, PNL_{TM} would be the maximum value of the curve of PNL versus t , that is, it would equal PNL_M.

Section B36.6 *Integrated duration correction*. The procedures in this section are considered to be most representative of the state-of-the-art and must be used unless the alternative procedures in § B36.7 are used.

The integrated duration correction D is defined by the expression:

$$D = 10 \log \left[\frac{1}{T} \int_{t(1)}^{t(2)} \text{ant} (\text{PNLT}/10) dt \right] - \text{PNLTM} \quad (6.1)$$

where T is a normalizing time constant, PNL_T is the expression for tone corrected perceived noise level as a function of time, PNL_{TM} is the maximum value of the tone corrected perceived noise level, and $t(1)$ and $t(2)$ are the limits of the time interval, d , to the nearest second, during which PNL_T is within a specified value h of PNL_{TM}.

Since PNL_T is calculated from measured values of SPL, there will, in general, be no

APPENDIX C—GENERAL NOISE LIMITS FOR TRANSPORT CATEGORY AND TURBOJET POWERED AIRPLANES UNDER § 36.201

Section 36.1 *Noise measurement and evaluation.* Compliance with this appendix must be shown with noise levels measured and evaluated as prescribed by Appendix A and Appendix B of this part, or under approved equivalent procedures.

Section 36.3 *Noise measuring points.* Compliance with the noise level standards of § 36.5 must be shown—

(a) For takeoff, at a point 3.5 nautical miles from the start of the takeoff roll on the extended centerline of the runway;

(b) For approach, at a point 1 nautical mile from the threshold on the extended centerline of the runway; and

(c) For the sideline, at the point, on a line parallel with and 0.25 nautical mile from the extended centerline of the runway, where the noise level after lift-off is greatest.

Section 36.5 *Noise levels—(a) General.* Except as provided in paragraphs (b) and (c), it must be shown by flight test that the noise levels of the airplane, at the measuring points prescribed in § 36.3, do not exceed the following:

(1) For approach and sideline, 108 EPNdB for maximum weights of 600,000 lbs. or more, less 2 EPNdB per halving of the 600,000 lb. maximum weight down to 102 EPNdB for maximum weights of 75,000 lbs. and under.

(2) For takeoff, 108 EPNdB for maximum weights of 600,000 lbs. or more, less 5 EPNdB per halving of the 600,000 lb. maximum weight down to 93 EPNdB for maximum weights of 75,000 lbs. and under.

(b) *Tradeoff.* The noise levels in paragraph (a) may be exceeded at one or two of the measuring points prescribed in § 36.3 if—

(1) The sum of the exceedances is not greater than 3 EPNdB;

(2) No exceedance is greater than 2 EPNdB; and

(3) The exceedances are offset by reductions at other required measuring points.

(c) *Noise prediction allowance.* If requested by the applicant, the noise levels prescribed under paragraphs (a) and (b) may be exceeded at the sideline or approach measuring points prescribed in § 36.3 if—

(1) The sum of the exceedances above the levels prescribed under paragraph (a) is not greater than 9 EPNdB;

(2) No exceedance above the levels prescribed under paragraph (a) is greater than 5 EPNdB;

(3) The exceedances above the levels prescribed under paragraph (a) are offset by reductions at the takeoff measuring point below the levels prescribed under paragraph (a);

(4) Acceptable noise prediction techniques were applied to predict noise levels no greater than those prescribed in paragraphs (a) and (b);

(5) These techniques failed for reasons beyond the control of the applicant; and

(6) Achieving the noise levels in paragraphs (a) and (b) would not be economically reasonable, technologically practical, or appropriate under the particular type certification program.

Section 36.7 Takeoff test conditions.

(a) Takeoff power or thrust must be used from the start of the takeoff to the point at which an altitude of at least 1,000 feet above the runway is reached.

(b) A speed of at least $V_1 +$ (a single specified speed margin in the range of 10 to 20 knots is proposed) must be attained as soon as practicable after liftoff, and must be maintained throughout the takeoff noise test.

(c) The power or thrust used to comply with the takeoff noise levels in § 36.5 must be sufficient to maintain a climb gradient of at least 6 percent.

(d) Takeoff flap settings must be used throughout the takeoff noise test.

These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, and 1423) and section 611 of the Federal Aviation Act of 1958 (82 Stat. 395), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on January 3, 1969.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 69-248; Filed, Jan. 10, 1969; 8:45 a.m.]

[14 CFR Parts 25, 121, 123]

[Docket No. 9344, Notice 69-2]

PROTECTIVE SMOKE HOODS FOR EMERGENCY USE BY PASSENGERS AND CREWMEMBERS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to require that protective smoke hoods be carried on all airplanes operated under Part 121. These hoods would be available for use by the occupants to facilitate airplane evacuation when fire or smoke is present after a crash landing or other emergency. In addition, Parts 25 and 121 would be amended to require the use of these hoods during emergency evacuation demonstrations.

Holders of certificates under Part 123 (Air Travel Clubs) would be subject to this proposed regulation, if adopted, since all of the emergency equipment requirements in Part 121 are incorporated by reference in Part 123.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before April 11, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

At present there is no requirement that aircraft be equipped with protective smoke hoods. This proposal is a new requirement to carry an additional item of emergency equipment.

As a result of several accidents involving transport category airplanes, it has become clear that occupants who survive an airplane crash are frequently incapacitated by the smoke and toxic gases released during subsequent fires and for this reason alone fail to evacuate the airplane.

In one particular accident, fire broke out almost instantly after impact. Evacuation, however, could not be initiated until the aircraft came to rest, following a skid of some 2,900 feet, which consumed some 40 seconds to 1 minute. During that interval, and during emergency evacuation, the occupants were exposed to smoke and fire, which incapacitated many. If passengers in this type of accident could have been protected from the immobilizing and incapacitating effect of inhalation of smoke, toxic gases, and flame for only 1 or 2 additional minutes prior to the development of intolerable temperatures, it is probable that a very significant increase in the number of survivors could have resulted (41 out of 85 failed to evacuate). Among the survivors smoke inhalation was the most prevalent injury. Of 44 passengers who escaped, 27 received treatment for tracheobronchitis and thermal damage to the respiratory tract. Many survivors reported difficulty in breathing after one or two breaths of the dense smoke. Under conditions of this kind, many lives could be saved if it were possible to provide the occupants with a supply of breathing air sufficient to enable evacuation of the airplanes.

The Civil Aeromedical Institute (CAMI), located at the FAA Aeronautical Center in Oklahoma City, has supervised the development, and successful testing, of a simple, bag-shaped, light-weight protective hood which, when worn over the head, provides this amount of breathing air in an emergency.

As developed by CAMI, the protective hood is fabricated primarily from a high-temperature-resistant plastic-film polyimide that provides short-term protection from ambient fire and smoke. A neck seal is utilized to minimize the inflow of contaminated air, enabling the wearer to breathe and rebreathe the air captured in the hood. The polyimide film is transparent so as not to hamper vision. Details on CAMI's initial development and evaluation program may be found in FAA Report AM 67-4, titled "A Protective Passenger Smoke Hood—April 1967." Subsequent refinements were made, including an improvement in the effectiveness of the neck seal and an improvement in visibility.

At the present time, however, protective smoke hoods have been produced in only limited quantities. FAA recognizes that further refinement of CAMI's hood design may be needed to enable quantity production at reasonable prices. The lead time set forth in this notice has been proposed with this possibility in mind. Specific comments on the adequacy of the proposed lead time are invited.

CAMI stipulated, as design objectives for its development program, that the protective smoke hood: (1) Be simple in design and use; (2) Protect the wearer from smoke inhalation for at least 1 to 2 minutes; (3) Provide omnidirectional visibility and donning capability; (4) Not burst into flame when exposed to fire; (5) Be light-weight and compact; and (6) Not create a hazard in itself. The

finally-evolved protective smoke hood meets these objectives. By excluding smoke and fire, and by protecting eyes and face, it enables occupants to withstand ambient fire and smoke for the time interval needed to evacuate the airplane.

To determine whether the use of protective smoke hoods would increase the time needed to evacuate an airplane, FAA conducted emergency evacuation tests on a typical airline jet airplane. These tests were described during FAA's Second Annual Report to Industry, held in Washington on June 11, 1968. A preliminary analysis of the data from these tests (involving 250 subjects in six emergency evacuations) showed an 8 percent increase in the time needed by untrained subjects to evacuate the airplane when each donned a protective hood. However, indications were that the airplane could still be evacuated in less than the 90 seconds prescribed in current rules. It is anticipated that with refinements in the design of the hood and its location and with a general public awareness of its purpose, there will be little or no change in evacuation times.

From the foregoing, FAA concludes that, if protective smoke hoods were provided in large transport airplanes, the probability of occupant survival in airplane crashes would be significantly increased; that the economic burden of fitting airplanes with such hoods is reasonable in relation to expected benefits; and that prototype hoods have been tested and evaluated to a sufficient extent to justify a requirement (with a reasonable implementation period) at the present time.

This proposed amendment would add an approved protective smoke hood to the emergency equipment listed in § 121.309. The number required would be a minimum of one for each occupant of the aircraft to be installed at a location convenient to each occupant seat. Comments are invited regarding whether an additional quantity should be available to cabin attendants to replace any lost during the confusion associated with an emergency situation.

The basis for approval of the protective smoke hood would be the standards set forth in proposed Appendix H. The proposed amendment would also require that passengers be briefed prior to each flight on the use of the hoods, that crewmembers be trained in their use, and that the hoods be worn by subjects participating in emergency evacuation demonstrations prescribed under Parts 25 and 121.

The FAA intends to make this proposed rule effective no later than 18 months after adoption of a final rule. However, the actual effective date to be established in a final rule will depend primarily upon the availability of approved protective smoke hoods.

In consideration of the foregoing, it is proposed to amend Parts 25 and 121 of the Federal Aviation Regulations as follows:

1. By adding a requirement to § 25.803 that the protective hoods be worn during emergency evacuation demonstrations.

2. By adding the following new paragraph (h) at the end of § 121.309 *Emergency equipment*.

(h) *Protective smoke hoods*. An approved protective smoke hood that meets the standards in Appendix H to this part must be installed at each occupant seat in such a manner that it is readily available for use during an emergency evacuation.

3. By adding a requirement to Appendix D to Part 121 that the protective smoke hoods be worn during emergency evacuation demonstrations.

4. By adding a requirement to Part 121 that each operator must train all crewmembers in the use of smoke hoods as they become a part of the emergency evacuation procedures. The training would include correct methods of donning smoke hoods, their limitations and recognition of symptoms of suffocation.

5. By adding a requirement to Part 121 that each operator must brief the passengers on, and demonstrate the use of, smoke hoods before each takeoff.

6. By adding the following new appendix to Part 121:

APPENDIX H

PROTECTIVE SMOKE HOODS

Protective smoke hoods required by § 121.309 must meet the following standards:

(1) The hood must be designed to be worn over the head with a closure about the neck that prevents inflow of outside air and permits rebreathing of only the enclosed air. The hood must not contact the face, distort vision excessively, or have protruding exterior points that will fall in a flame environment.

(2) The hood must be designed so that its use, including donning and removal, is easily understood following a simple briefing and demonstration by a crewmember.

(3) When empty and extended to its maximum, the hood must contain at least 25.6 liters of air. However, it must not be so large as to inhibit usage or movement by the wearer.

(4) Sharp or abrasive surfaces of the interior must be faced with a soft material. The closure device after donning must be self adjusting and free of protrusions which could catch or snag objects within the aircraft.

(5) The material of the hood must be transparent, except for the top of the hood down to eye level which must be coated with a reflective material. The reflective material must not interfere with horizontal vision. The hood must also be flexible enough to respond to volume changes induced by breathing of the wearer, but sufficiently rigid to support its weight so that it will stand away from the face and will not be drawn against the nose and mouth during heavy breathing. It must not interfere with voice communications.

(6) The hood must be capable of withstanding a sudden exposure to temperatures of 1,200° F. for a period of at least 5 minutes without melting or igniting.

(7) When mounted in a vertical position as worn by an individual, the hood must be able to withstand, without damage, exposure to an 18-inch long yellow (not blue or blow torch) licking flame applied randomly at right angles to the flatter surfaces for a period of at least 30 seconds.

(8) Materials used must be inert or treated to render them nonnutritive to fungus. Materials must be nonirritating to the skin and free from objectionable odors.

When heated to high temperatures they must not yield hazardous quantities of toxic compounds.

(9) The optical transparency as measured by an optical photometer through the hood at eye level and below must be at least 75 percent at all angles of rotation of the hood about the wearer's head (to permit vision without regard to orientation).

(10) The transparent portion of the hood must reflect a minimum of 25 percent of the infra-red radiation incident to the exterior surface. The areas coated with reflective material must reflect a minimum of 80 percent of the infra-red radiation incident to the exterior surface.

(11) The material must not deteriorate with age and must have sufficient tensile strength to prevent tearing up to temperatures of 750° F.

(12) The hood must be capable of being folded or compressed into a package suitable for installation near the user's seat. When folded, it must endure environmental extremes ranging from -67° F. to 160° F. and 5 percent to 95 percent relative humidity, for a period of 120 hours without damage.

(13) Each hood must be marked with the following information, visible in the folded condition: the words "Protective smoke hood", the manufacturer's name, the part number, and the manufacturing date.

This amendment is proposed under the authority of sections 313(a), 601, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 6, 1969.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 69-306; Filed, Jan. 10, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1130]

[Docket No. AO-259-A19]

MILK IN CORPUS CHRISTI, TEX., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Corpus Christi, Tex., marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the

FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Edinburg, Tex., on August 20-21, 1968, pursuant to notice thereof which was issued July 31, 1968 (33 F.R. 11083).

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

1. Changing distribution of returns to producers from individual-handler pools to a marketwide pool;
2. Plant pooling requirements appropriate for a marketwide pool;
3. Treatment of unpriced and other order milk;
4. Producer-handler definition;
5. Diverted milk;
6. Classification changes;
 - (a) Use of a separate class for milk used in cottage cheese instead of the present additional charge for milk so used;
 - (b) Classification of packaged fluid milk products in inventory;
 - (c) Butterfat in fluid milk products dumped;
 - (d) Shrinkage allowance on diverted milk;
 - (e) Plant accounting;
7. Classification and payment for cooperative bulk tank milk;
8. Class I prices and location differentials;
9. Plants regulated under other orders; and
10. Associated changes.

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. *Changing distribution of returns to producers from individual-handler pools to a marketwide pool.* The order should be revised to provide for the marketwide pooling of returns to producers.

Under the present individual-handler pooling each handler pays his producers a uniform price based on his utilization of their milk at the applicable class prices. Producers supplying different handlers in the market receive different uniform prices because of the varying proportions of milk utilized in each class by handlers.

The major cooperative representing about 72 percent of the producers on the market proposed replacing individual-handler pooling with marketwide pooling. It contends marketwide pooling would achieve more stable and orderly marketing conditions by enabling all producers to share proportionately in the returns from the Class I sales of all handlers.

All producers delivering to Corpus Christi regulated plants contribute toward supplying the fluid milk requirements of the entire market and meet

the same basic quality and health requirements for milk to be distributed as Class I sales throughout the marketing area.

Under marketwide pooling a producer supplying the order market is assured a return for his milk based on his pro rata share of the total Class I sales of such market. The uniform price paid to producers each month will depend on the overall utilization of all producer milk received at the pool plants of all regulated handlers. Hence, except for adjustments for variations in butterfat content and point of delivery, all producers will receive the same uniform price for their milk irrespective of the use made of it by the handler to whom they sell. Handlers' costs, of course, will not be affected by the change to marketwide pooling since the class prices which they pay for their milk will not be changed.

The major cooperative in this market has, since 1958, disposed of the reserve supplies of producer milk that are not needed, or accepted by handlers in the market. The cooperative operates a "market equalization" plant at Falfurrias, Tex. It uses this plant and its facilities to collect excess milk for shipment to distant nonpool plants for manufacturing uses. The cooperative also diverts milk directly from farms to nonpool plants. When the cooperative disposes of excess milk, it receives prices approximating only the Class II price of the order. Under the individual handler pool arrangement in this market such lower returns are shared only among cooperative members and thus, there has not been an equitable sharing among all producers in the market of the lower returns from excess milk which must be disposed of in manufactured dairy products.

Under the present pooling provisions a wide disparity exists between prices paid to producers at different plants. Adjusted for location to a common point in the market, the difference between the highest and lowest monthly prices paid to producers by handlers during 1967 and 1968 has varied from 22 cents to \$1.65 per hundredweight. In recent months this variance in prices has become more pronounced. In December 1967 the difference was 53 cents per hundredweight between the prices paid by the highest-paying handler and the lowest-paying handler. In four of the first 7 months of 1968 through July such price disparities between handlers have been in excess of \$1 per hundredweight. In the most recent month for which figures were presented, the price disparity between the highest-paying handler and lowest was \$1.65.

A number of Corpus Christi handlers limit their purchases to about their Class I needs and depend upon the cooperative to dispose of any excess milk. Producers who are not members of the cooperative receive a uniform price for milk which reflects the high Class I use of handlers purchasing their milk. On the other hand, cooperative members receive a uniform price that includes a return on milk transferred and diverted to manufacturing plants for the ac-

count of the cooperative. Milk so diverted in 1967, when 178 million pounds of producer milk were pooled, totaled 12 million pounds. In the first 7 months of 1968 such diversions had already amounted to nearly 11 million pounds, slightly more than 10 percent of all producer milk under the order for the period.

In the past few years there have been many instances when handlers have had more than an adequate supply of milk at certain times. In such cases handlers have dropped producers from their plants and the cooperative has been asked to market their milk. The same handlers have often requested that additional producers be made available to deliver milk to their plants in the next season of declining production.

It is clear that the principal producer association has carried the reserve milk necessary to provide handlers with their daily and seasonal needs for Class I use. In addition to disposing of reserve supplies it has furnished supplemental milk when needed. Part of this supplemental milk has been furnished through its balancing plant and part has been imported from other markets.

There is need for a more efficient pooling system in the Corpus Christi market which will distribute equally among all producers the higher returns from the Class I sales of the market and the lower returns from the disposal of the reserve milk necessarily associated with such Class I sales. A marketwide pool will accomplish these objectives.

A marketwide pool will contribute to more orderly marketing by enabling the cooperative to move milk among the various plants throughout the marketing area to obtain the optimum utilization of producer milk for the whole market. Each producer's share of the Class I sales in the market is now limited to the Class I sales of the handler to whom he ships. Under a marketwide pool every producer on the market will share equally in the total Class I sales of the whole market. This will facilitate the efficient movement of milk to obtain the highest Class I utilization of all producer milk.

For the above reasons a marketwide pooling system should be incorporated in this order for distributing returns from the sale of milk to producers.

Two handlers and one producer opposed the change to marketwide pooling. One handler opposed a marketwide pool because of his belief that it would result in pooling milk not needed for Class I sales plus a reserve. However, his testimony was directed primarily toward the need for adequate pool plant performance standards. He was also concerned about possible disrupted marketing conditions which he alleged prevailed under a marketwide pool in another market. There is no evidence disruptive conditions would result in Corpus Christi under marketwide pooling.

Another handler wished to be exempt from marketwide pooling so that his proceeds from the Class I sales of milk would be retained for producers delivering to his plant and not be shared equally with all other market producers.

A producer testified in favor of continuation of the present pooling system because he believed it contributed to better quality milk production. There is, however, no evidence that premium payments based upon quality have been used as a means of promoting quality production. The proposed change in the method of pooling has no relation to quality programs in effect between handlers and producers. These are not, of course, adequate bases for retaining the present method of pooling in view of the inequitable and inefficient situation which has developed and which is rapidly getting worse.

2. *Plant pooling requirements appropriate for a marketwide pool.* Changing from individual-handler to marketwide pooling necessitates a different basis for establishing which plants shall be subject to regulation under the order.

It is essential to the operation of a marketwide pool to establish minimum performance requirements to distinguish between those plants which serve the fluid needs of the market and those plants which do not. Otherwise, the proceeds of Class I sales would be dissipated by including in the pool additional quantities of milk which may be acquired by handlers primarily for manufacturing uses. Unless performance standards for plants are adequate, benefits could accrue to handlers whose producers do not regularly and dependably serve the fluid milk needs of consumers in the marketing area. Without such standards, the uniform price of the market could be depressed to the point that it would not attract an adequate supply of milk for the fluid needs of the market without a Class I price higher than necessary.

The present order, as do other individual-handler pool orders, provides very minimum performance standards. At present a distributing plant qualifies as a fluid milk plant or "pool plant" by disposing of at least an average of 1,000 pounds of Class I milk per day or more than three percent of its Grade A receipts, whichever is less, on routes in the marketing area. A supply plant qualifies for pooling by shipping any amount of milk to a pool distributing plant in any month of February through July, or in excess of 5,000 pounds per day on a milk equivalent basis in any of the other months of the year.

Under marketwide pooling, the present standards for pooling are inadequate to insure against plants becoming associated with the market for the sole purpose of drawing money from the pool without contributing on a regular and dependable basis to the Class I needs of the market. In order to share in market pool funds it is essential that plant operators deliver milk to the market in amounts sufficient to contribute to adequate and dependable market supplies. The establishment of marketing performance standards for pool plants also minimizes the effect of regulation on handlers who may have only a minor proportion of their distribution in the marketing area. They do this by exempting such handlers from full regulation.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards must be provided for each type. A "distributing plant" would be a plant from which Grade A fluid milk products are disposed of during the month on a route in the marketing area. "Supply plant" would mean a plant from which Grade A milk is shipped during the month to a distributing plant. These are essentially the definitions of the present order.

Only plants primarily engaged in route disposition of fluid milk products should be eligible to qualify as distributing plants. Route disposition of fluid milk products (both inside and outside the marketing area) in any month should be not less than 50 percent of its total receipts of Grade A fluid milk products. It would be inappropriate to qualify under this order as a pool plant any distributing plant from which less than one-half of its Grade A receipts is disposed of on routes. Any plant which does not qualify on this basis is not primarily engaged in fluid business. Its pool status should be judged by the standards applied to supply plants.

In order to qualify as a pool plant under the revised order, a distributing plant should also demonstrate its association with the Corpus Christi market by substantial route disposition of fluid milk products within the Corpus Christi marketing area. Disposition of 10 percent of its total Grade A receipts of fluid milk products on routes in the marketing area will assure adequate association with the market. All plants presently qualified as "fluid milk plants" will meet the pooling requirements for "distributing plants."

A plant from which milk for Class I uses is distributed regularly in the marketing area may be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum standards necessary to qualify as a pool plant. From time to time plants supplying milk to the marketing area may not qualify for pool plant status. Handlers operating such plants should be required to file reports and make their records available for audit by the market administrator. Such plants, meeting the "partially regulated distributing plant" definition, also would be subject to regulation hereinafter described.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that currently milk received directly from dairy farms at distributing plants or cooperative-owned plants is adequate on an annual basis for the fluid milk needs of the market. No supply plants are expected to qualify for pooling. However, performance standards for such plants should be set forth if milk from supply plants is needed at any time.

To qualify for pool plant status a supply plant should ship to pool distributing plants 50 percent or more of its receipts of Grade A milk from dairy farmers and cooperative association bulk tank handlers in the form of bulk fluid milk

products. A plant thus shipping the major portion of its receipts from dairy farms to pool distributing plants is making a substantial contribution toward providing an adequate supply for the market. A supply plant with a lesser proportion of its farm milk supply disposed of in this manner should not, under present conditions, be considered to be associated with the Corpus Christi market to a degree that entitles it to share in the pool funds.

If there is any demand from supply plants it would be greater in months of seasonally low production. During months of high production it would be more economical to leave the most distant milk at country points for manufacture while nearby milk is used for fluid needs in distributing plants. The performance standards for supply plants should not require milk to be transported to pool distributing plants in high production months solely to maintain the eligibility of supply plants to remain pooled.

A supply plant which met the pooling requirements by shipping 50 percent or more of its receipts to pool distributing plants in each month of the immediately preceding September through December period should be a pool plant without further shipments in the following months through August. This automatic pool status would not apply if the plant operator elects nonpool plant status, or does not continue to meet the requirements of a duly constituted health authority. If such a plant becomes a nonpool plant, nonpool status shall be effective the first month following notice to the market administrator, or upon loss of health authority approval, and thereafter until the plant again qualifies as a pool plant on the basis of required shipments.

Any plant located in the marketing area that is approved by a duly constituted health authority to receive Grade A milk from dairy farmers and that is operated by a cooperative association should be designated as a pool plant if 50 percent or more of the milk of member producers of such cooperative association is delivered during the month to pool distributing plants of other handlers. Thus, such an association could qualify a plant for pooling either by delivering milk directly from the farm, or by transfer from the cooperative association plant, or both in combination. Dairy farmers delivering milk to such cooperative association plant must, of course, have such milk approved for consumption as Grade A milk to have their milk included in the pool.

The present order provides for a "market equalization plant." The cooperative association operates a market equalization plant at Falfurrias, Tex., in Brooks County, a part of the marketing area. Under present order provisions milk received at the cooperative plant as diversions from fluid milk plants, by movement directly from the farms of producers or as transfers from regulated plants under this order, is priced to the handler operating the regulated plant

although the Falfurrias plant is not a regulated plant. The Falfurrias plant serves as a facility at which producer milk not needed by fluid milk plants may be assembled for movement to manufacturing milk plants for processing. It further serves as a market balancing plant at which producer milk not needed by certain handlers may be collected, assembled and made available to other handlers for Class I use, or disposed of in manufactured dairy products.

Under the proposed marketwide pool this market equalization plant would be a pool plant if the above conditions were met. As a pool plant, milk received directly from farms would be priced and pooled as receipts of such plant and would no longer be diverted milk. This change would in no way change the function which the plant performs but will clarify and simplify other provisions of the order. This change would assist the cooperative both in supplying the milk requirements of other handlers in the market and in performing its function of marketing efficiently the milk of its members.

The cooperative plant assists in providing other handlers with the precise amounts of milk which they require and is an outlet for disposal of any excess. Handlers' needs vary widely during the week. Supply requirements increase on heavy bottling days and diminish on other days, particularly on weekends when little or no milk is bottled. The cooperative association usually delivers directly to handlers' plants the milk needed each day and receives at its equalization plant the remainder of the association's supply.

Permitting a cooperative under these conditions to pool the returns of milk which is received at its plant will contribute to orderly marketing. The equalization plant is an integral part of the entire supply arrangement for the Corpus Christi market. This operation assists all producers in realizing the best utilization of available milk supplies because receipts and shipments fluctuate widely. The cooperative-owned plant probably could not meet the minimum pooling requirements for a supply-type plant.

Because of its important function in serving the market, the cooperative-owned plant should be qualified for pooling. Milk received directly at its plant from farms represents a small portion of the total supply of the cooperative. Most of the milk supply is moved by bulk tank delivery to handlers' processing plants. The cooperative should have opportunity to pool the milk at its plant on the basis of the cooperative's total function in supplying the market. Milk moved by the cooperative directly from farms of members to pool distributing plants of other handlers should count toward qualification of the supply equalization plant along with milk moved from such plant as a transfer to such pool distributing plants. This treatment will recognize the total performance of the cooperative association as the basis for pooling its plant.

Under the conditions presently prevailing in the Corpus Christi market,

cooperative association plants to be pooled on the basis proposed (total deliveries of member producer milk to pool distributing plants of other handlers) should be restricted to those located in the marketing area. The principal cooperative association representing Corpus Christi producers also represents producers in many other Federal order markets in which provision is made for pooling cooperative standby plants on a similar basis. In many of these markets the cooperative operates plants. Without some limitation, such as location in the marketing area, situations could arise in which such plants could qualify for pooling under the Corpus Christi order as well as another order. While such a limitation could conceivably limit the opportunity for other cooperatives to serve the market upon an equal basis, there is no factual basis to believe that such is the case in this market. The only other cooperative association representing Corpus Christi producers at this time represents local producers and operates no plant.

A handler expressed fear that the Falfurrias operation would not qualify as a plant under the definition proposed and thereby in some undefined way could qualify receipts from other plants for the Corpus Christi pool. Unless this facility meets the plant definition of the order it could not be a pool plant. Minor changes in the proposed "plant" definition are made to insure that this facility as presently equipped and operated will meet the "plant" definition. Only pool distributing plants can qualify receipts from supply plants for pooling under the order.

The same handler proposed that as a condition for pooling its standby plant, the required percentage for member milk to be delivered to pool plants of other handlers should be 80 percent rather than 50 percent. Fifty percent is a percentage used in numerous Federal orders for this purpose and should be adequate to insure that the cooperative has a genuine function in supplying milk to the market as a condition for pooling its plant as a standby plant.

Qualifying the cooperative plant as a pool plant will mean that diversions from pool distributing plants of other handlers can no longer be made. Instead, milk moved from the farm directly to the pool plant operated by the cooperative association will be a receipt of producer milk at the cooperative-owned pool plant. On days when such milk is moved directly from the farm to a pool distributing plant of another handler, it will be considered producer milk at the pool distributing plant. Further consideration of producer milk diversions is discussed hereinafter.

All producer milk received at regulated plants must be classified and priced under the order regardless of whether it is disposed of inside 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, in effect he 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.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of partial regulation to plants having less association than required for marketwide pooling would not jeopardize marketing conditions within the regulated marketing area.

3. *Treatment of unpriced and other order milk.* Under a marketwide pooling system of distributing returns to producers, some revisions in the treatment of milk from sources other than producers are necessary. These relate to (a) obligations with respect to milk sold in the marketing area by distributing plants not regulated by this or any other Federal order, (b) obligations with respect to receipts of unpriced milk assigned Class I use at pool plants, and (c) revision of the assignment to classes of milk received from plants regulated by other orders.

Official notice is hereby taken of the Assistant Secretary's June 19, 1964, decision (29 F.R. 9213) supporting amendments to several orders including the Corpus Christi order. The conclusions of this decision are adopted herein as applicable to marketing conditions under marketwide pooling in the Corpus Christi marketing area.

The decision referred to provides a procedure for affording certain options to the operator of a "partially regulated distributing plant" from which fluid milk products are disposed of on routes in the marketing area but which does not qualify as a pool plant, and is not regulated under any other Federal order. These are designed to prevent disruption of the effective classification, pricing, and pooling of producer milk. Normally the operator of an unregulated distributing plant may procure his milk at a price approaching the uniform price under the

order without regard to the utilization of such milk.

The operator of a partially regulated plant is afforded the options of (1) paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

Handlers may receive milk from several sources besides producers under the marketwide pool proposed for this order. The Corpus Christi order presently contains most of the procedure for allocating such receipts incorporated in market pool orders by the June 19, 1964, decision. With respect to milk received from plants regulated under other orders, provision should be made that, to the extent that the receiving handler has use in Classes II and III, the assignment to such classes will not be less than the Corpus Christi market average. Other Federal orders with market pools have this provision.

As described elsewhere in this decision, accountability and classification of receipts will be on a plant basis for handlers operating more than one pool plant. Allocation will likewise be on a plant basis unless unpriced or other order milk is received at any of the plants. Under that circumstance, allocation will be upon a system basis in order that the aggregate utilization in all of the handler's pool plants may determine the assignment of such other source receipts.

Provision should be made that the operator of a pool plant should pay an amount equal to the difference between the Class I price and the uniform price of the order with respect to milk from unpriced sources allocated to Class I under provisions identical with those of the present order. This is the rate provided under the June 1964 decision for market pool orders.

Any payments on partially regulated milk and on unpriced milk received by the market administrator from any handler will be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby would be distributed to all producers on the market.

4. *Producer-handlers.* Provision should be made to add to the producer-handler definition limitations with respect to pool and nonpool milk which a producer-handler may receive if he is to retain ex-

emption from pricing and pooling milk of his own production under the order. The order should not be revised to regulate producer-handlers with monthly dispositions of more than 129,000 pounds.

The Corpus Christi order presently exempts from pricing and pooling milk of producer-handlers distributing their own production if they receive no milk from other dairy farmers. In addition, they must satisfy the market administrator that both milk production and processing, packaging, and distribution of milk are the personal enterprise and personal risk of the producer-handler. No person is currently operating as a producer-handler in the Corpus Christi market.

The principal cooperative association proposed two additional limitations with respect to producer-handlers. The first was that they should not dispose of other source milk, except nonfat solids used in fortification, as Class I milk; the second would limit the producer-handler's receipts from pool sources each month to the lesser of 5 percent of his Class I disposition, or 5,000 pounds.

A handler witness proposed that a producer-handler whose Class I disposition exceeded 129,000 pounds per month should have his own production priced and pooled under the order.

Another handler opposed certain of the additional limitations proposed and the proposed regulation of producer-handlers on the basis of volume disposition. This handler, a corporation, is presently supplied by two affiliated corporate production units and three unincorporated units, all of which own stock in the corporation presently regulated as a handler. The diversity of interest and control between these various units has so far precluded producer-handler status for this operation. Until recently milk has also been received from producers in no way affiliated with the complex. This handler, however, claims that it plans to qualify as a producer-handler by meeting the present requirements of personal enterprise and risk of both the production and processing operations.

The handler objected strenuously to two features of the limitations proposed by the cooperative association. Presently it disposes of as Class I milk two items which it does not process in its plant and which are not processed or packaged in any Corpus Christi plant; such disposition of other source milk as Class I milk would be denied a producer-handler under the proposal. In addition, the handler objected to the 5,000 pound limit proposed for receipts from pool plants.

It is concluded that action should not be taken on the basis of this record to regulate producer-handlers with Class I disposition in excess of 129,000 pounds monthly. Since no producer-handlers are presently operating in the market, there is no present basis for evaluating the effect of large scale producer-handler operations upon the operation of the order. Should such operations actually develop, the effect upon the regulatory scheme of the order could then be considered in the light of actual conditions.

The proposal to regulate producer-handlers with Class I disposition in excess of 129,000 pounds monthly should, therefore, be denied on the basis of this record.

No plant regulated by the Corpus Christi order either makes yogurt or packages cream in half-ounce tetrapak containers. Both items are generally distributed by a number of handlers. Since these items are not available from pool sources, the pool will suffer no disadvantage if producer-handlers are permitted to dispose of such items. To prevent price advantage over fully regulated handlers, the producer-handler should be restricted to disposition of such items made from milk classified and priced as Class I under any Federal order.

It is appropriate that a limit be placed on the amount of milk that a producer-handler may receive from pool plants if he is to retain exemption from pricing and pooling of his own production. If producer-handlers could rely on unlimited pool supplies to supplement their own production, they would be able to keep their own production sold for Class I use without assuming the burden of their own surplus. The producer-handler maintains control of his milk from its source of the farm until its ultimate disposition. He is, therefore, in position to keep his farm production closely in line with the needs of his fluid milk business. He should assume the major burden of maintaining the reserve supply of milk for his fluid operations.

There is no controversy over the proposal that a producer-handler's receipts from pool plants be limited to 5 percent of his Class I disposition. There is, however, substantial protest with respect to the proposal that such receipts do not exceed 5,000 pounds monthly. The handler making the protest now receives in excess of 2 million pounds of milk monthly from the production units for which he contemplates integration with his processing unit. A producer-handler of such size should rely upon his own production for reserve supplies. However, an occasional purchase of a small amount from pool plants should be permitted to cover possible emergencies. It is concluded that a volume limitation of 10,000 pounds monthly should apply whenever 5 percent of a producer-handler's Class I disposition exceeds that figure.

5. *Diverted milk.* Order provisions with respect to diverted milk should be revised.

The present order provides for unlimited diversions of producer milk during the flush months of March through July. During August through February the diversion of producer milk to a nonpool milk plant is limited to a maximum of 25 days of production to each producer. Diverted milk is presently priced at the location of the pool plant from which it is diverted.

Both cooperative associations acting as handlers and proprietary handlers should be permitted to divert producer milk from a pool plant to a nonpool plant. Unlimited diversion is neither necessary nor desirable in this market when much of the producer milk is

necessary to fill the Class I milk needs.

The order provisions should accommodate the efficient handling of milk excess to Class I needs since market requirements vary widely from day to day and particularly on such occasions as weekends or holidays. The diversion provisions adopted should promote economical handling at a lesser hauling cost for milk not needed at times at pool plants by permitting it to be diverted to nonpool plants.

A cooperative should be permitted to divert for its account up to one-third of its total member milk received at all pool plants in the month. A handler operating a pool plant similarly should be allowed to divert for his account milk of producers who are not cooperative association members in a quantity up to one-third of the milk received at such pool plant from producers who are not members of a cooperative which is diverting milk for its own account.

Diversions in excess of the aforesaid quantities would not be producer milk. In case a handler diverted milk in excess of the allowable limit he would designate the dairy farmers whose milk is ineligible as producer milk. However, if he failed to specify the dairy farmers whose milk would be considered as overdiverted, then producer milk status would be forfeited with respect to all milk diverted by the handler.

Diverted producer milk should be priced at the location of the nonpool plant to which diverted. The applicable prices would be those resulting from the pricing provisions of the proposed order adjusted to the nonpool plant location as if such plant were a pool plant. This will reduce the incentive for associating a quantity of distant milk with a marketing area pool plant which milk would be intended for manufacturing uses in the area of its production. Unless the order so provides, distant producers could receive the blend price payable at marketing area plants when their milk actually would be delivered on a regular basis to distant plants for manufacturing uses. Pricing diverted milk at the location to which diverted will insure that the pool, and hence producers generally, are not charged for transportation that is not performed when distant milk is manufactured at plants located near the farms on which it is produced.

Diversions of producer milk for manufacturing (Class II or Class III) use should be permitted to other order plants, if the handlers involved request and so report such use classification of diversions. Similar diversions to pool plants under this order of producer milk under another order for manufacturing uses by handler agreement should be accommodated. Many plants in adjacent areas providing outlets for reserve milk are pool plants under regulation of some other order.

6. Classification changes. Some revisions in the classification and accounting for milk should be made.

(a) The Corpus Christi order should be changed from a two-class market to a three-class market. A new Class II should

be skim milk and butterfat in fluid milk products used to produce or added to cottage cheese or cottage cheese curd. Nonfluid milk products used to produce cottage cheese should be Class III milk, as should cottage cheese disposed of for livestock feed or dumped in excess of that made from nonfluid milk products.

The present Corpus Christi order does not classify skim milk and butterfat used to produce cottage cheese separately from other manufactured dairy products. However, it does apply an additional charge of 25 cents per hundred-weight on Class II milk used in cottage cheese. The three classifications would simply replace the present charge for milk in cottage cheese, and would make more specific the application of the allocation and accounting provisions of the order with respect to such milk.

The new Class II classification should be restricted to fluid milk products used to produce cottage cheese in excess of that dumped or disposed of for livestock feed as Class III milk during the month. The fluid milk products added to cottage cheese or cottage cheese curd would be included. Nonfluid milk products, such as nonfat dry milk or cottage cheese curd used to produce cottage cheese should be classified as Class III milk.

A charge equal to the difference between the preceding month's Class III price and the current Class II price should be applied to producer milk in inventory that may be assigned to Class II, since this milk was priced as Class III milk during the preceding month. No obligation should be made on other source fluid milk products assigned to Class II. These provisions will result in application of the Class II price only to pool milk used in Class II. This is the effect of the present charge.

The Class II price under the revised order should be the Class III price for the month plus 25 cents which is the same as the present charge on milk in cottage cheese uses.

(b) Class I milk should include inventories of fluid milk products in packaged form at the end of the month. Such packaged fluid milk products have been prepared for disposition early in the following month. Administrative feasibility has generally required that fluid milk products accounted for as inventory under milk orders be limited to those physically located in the plant where processed. Packaged milk products moved to distribution points have thus been classified as Class I disposition even though they may be on hand at the distribution point at the end of the month. If packaged inventories are classified as Class I milk the monetary importance of their exact location in the distribution system will be minimized.

Except for the first month in which this provision is effective, packaged inventories classified as Class I will be allocated to the plant's Class I disposition in the following month. Since the order now classifies all inventory in Class II, which under the revised order becomes Class III, packaged inventories on hand at the beginning of the first month of

the revised order should be allocated to Class III. This is the class comparable to that in which it was classified in the preceding month. Thereafter, packaged inventories should be assigned to Class I utilization of the following month.

Provision should be made to adjust the value of the packaged inventories allocated to the following month's Class I disposition to compensate for any change in Class I prices between the 2 months. This will insure uniform cost to handlers for all Class I disposition in each month regardless of the extent to which they have accumulated inventories.

(c) Butterfat in fluid milk products dumped should be classified as Class III. The present order provides a surplus milk classification only for skim milk dumped.

Proponents requested this change to accommodate the disposition of route returns, primarily those in which it is difficult or impossible to salvage the butterfat. The provision, however, will also include butterfat dumped for any reason.

A handler must notify the market administrator and give sufficient time and opportunity to him for verification of quantities to be dumped prior to such disposition of fluid milk products or cottage cheese.

(d) The shrinkage classification provision has been revised to provide the diverting handler not in excess of 0.5 percent shrinkage in Class III on milk diverted to nonpool plants to be consistent with shrinkage limits on other milk movements. However, if the operator of the nonpool plant accounts for such diverted milk on the basis of farm weights and tests, no shrinkage shall be allowed the diverting handler. Shrinkage allowances on diverted milk are thus comparable with those on milk delivered to pool plants under bulk tank handling.

(e) The order provisions should be specific that accounting for milk should be on a plant basis rather than a system basis. Where a handler has more than one plant, shortages in one plant should not be offset by overages in another. Heretofore, it has been necessary to compute a common uniform price to apply at all plants of a handler, with suitable adjustment for location. This is no longer necessary. A common uniform price is to be computed for all handlers. As noted elsewhere, system allocation will apply to multiple plant operations whenever assignment of certain other source or other order receipts is involved.

7. Classification and payment for cooperative bulk tank milk. The present option with respect to cooperative associations becoming bulk tank handlers under specified circumstances should be deleted. The milk which a cooperative association bulk tank handler delivers to pool plants should be classified on the basis of utilization at the pool plant to which delivered and the plant operator should pay the cooperative association for such milk at the order uniform price.

The present order defines a cooperative association which delivers milk of its producers from the farm directly to pool plants of other handlers in a tank truck

owned and operated by, or under contract to such cooperative association as the handler for such milk, if it so elects. The principal cooperative in the market proposed to delete this election.

When milk is picked up by tank trucks under the control of the cooperative association, handler status should be mandatory for such association. When milk of several member producers is commingled in such a tank truck, the cooperative association is the only party in control of the information as to the quantities of milk from each individual producer. The cooperative association should be required, therefore, to report to the market administrator the quantity of milk received from each producer. The association should also be responsible for obtaining samples at the farm for the purpose of butterfat testing, the testing of such samples, and reporting to the market administrator the quantities of butterfat received from producers.

After milk of individual producers is commingled in a tank truck, there is no further opportunity to measure, sample or reject the milk of an individual producer. Therefore, when weighing and testing are conducted under the direct supervision and control of the cooperative association the cooperative should be the handler responsible for reporting receipts of milk from producer members and its disposition to other plants for pooling, any such milk not so disposed of, and payments to individual producer members. In addition, the association should be accountable to the producer-settlement fund for any differences in the quantities of milk received from producers based on farm measurements and the quantities of milk which purchasing handlers accept as received at their plants from the association. This is necessary to insure that cooperative handlers, as do other handlers, account for all milk received from producers. For pricing purposes the milk would be considered as received by the cooperative at the location of the plant to which delivered.

The order presently classifies milk delivered to a pool plant by a cooperative bulk tank handler as an interhandler transfer. Classification is by agreement between the cooperative and the pool plant operator, subject to limitations based upon utilization at the pool plant. The record shows that at least two handlers have received their entire supply of producer milk from the cooperative with the result that no uniform prices have been computed for such handlers, but uniform prices have been computed for the cooperative association.

The operator of the pool plant to which a cooperative association delivers milk picked up at the farm in a bulk tank truck is the handler in control of the utilization of the milk so received. He should therefore be responsible for reporting its utilization and for its value at the class prices applicable to such utilization. This can be accomplished by treating such milk the same as receipts of other producer milk at the pool plant. The pool plant operator would be re-

sponsible to the producer-settlement fund and for administrative expense on milk it received from the cooperative. The association would account to the producer-settlement fund and pay the administrative expense on the quantity of milk involved in any difference between milk received from farms and that delivered to pool plants.

The pool plant operator would be charged class prices based on his utilization of such milk and would pay the cooperative association bulk tank handler the minimum uniform price for such milk the same as for milk received from an individual producer. The handler would pay to the producer-settlement fund any amount by which the value of such milk exceeds the amount to be paid the cooperative association and would receive from the fund any amount by which payments at the uniform price exceed the value at class prices. This is the procedure with respect to all producer milk under a market pool. This procedure simplifies any adjustments based upon audit of handlers' records.

8. *Class I prices and location differentials.* No change should be made in the Class I price or the structure of location differentials in this order on the basis of this record.

The hearing notice had no proposal to change the Class I price or location differentials. A handler testified, however, on the need for a reduction in the Class I price and for elimination of the location adjustments to the Class I price at points within the marketing area. These proposals would have decreased the Class I price 13.5 cents per hundredweight at some pool plants and 4.5 cents at others.

The main thrust of the handler's testimony was that the Corpus Christi Class I price is not in alignment with that of nearby orders and that location differentials no longer serve a useful purpose in allocating supplies of producer milk among regulated plants at different locations in the area.

In common with other Texas Federal order markets the Corpus Christi price is based upon the North Texas price plus transportation costs based upon mileage from the principal market of that order. Present location differentials within the marketing area were adopted after careful consideration of the need for milk supplies in relation to the area of production. Nothing in this record denies the basic validity of the Class I pricing provision or the location differentials used.

The proponent handler has for the past year paid premiums over the Class I price to his producers, as has other handlers. Under such circumstances, there is no reason to believe that either a reduction in the Class I price or deletion of the in-area location adjustment are needed. The proposals to make such changes should be denied.

9. *Plants subject to regulation under other orders.* Rules should be established for determining whether this order or another order should regulate a plant which meets the pooling requirements of this and other orders during a month.

Some milk may be distributed in the marketing area from plants which are

fully subject to the classification and pricing provisions of other Federal milk orders. It is not necessary to extend full regulation under this order to plants which dispose of a greater portion of their receipts in another regulated marketing area. This would subject such plants to duplicate regulation. However, the operator of such a plant should be required to file reports of receipts and utilization at such plant and allow verification of such reports as the market administrator may require so that the market administrator may be fully apprised of the continuing status of the plant even though it would be exempt from this order.

Distributing plants sometimes meet the pooling requirements of more than one order. Generally, such a plant should be regulated under the order in which it has the greater route disposition in the marketing area. Provision should be made, however, that a plant regulated by one order shall not become regulated under another until the third consecutive month in which its distribution in the other order area is the larger. Supply plants should be regulated under the order to which greater shipments are made except during the period of automatic pooling for qualified plants.

Provisions to this effect are contained in several other Texas orders. Official notice is hereby taken of the decision issued January 9, 1962, on the San Antonio and Austin-Waco orders (27 F.R. 417) insofar as it applies to the San Antonio order. Under that decision provisions identical with those provided herein were adopted for the San Antonio order. The evidence in this record shows that they would be equally applicable to the Corpus Christi marketing area.

10. *Associated changes.* Certain other provisions of the order previously not discussed herein have been revised because they are associated or conforming changes necessary with a change to a market pool order. Certain proposals associated with the change in pooling are not adopted for reasons set forth below.

(a) The dates for announcement of class prices, handler report filing, and partial payments to producers should be advanced.

Presently, the market administrator announces class prices on the sixth day after the end of the month. Handlers file reports of receipts and utilization on or before the eighth day after the end of month. These dates should be advanced by 1 day to conform more closely with those in nearby orders.

Under marketwide pooling and earlier reporting date is necessary to provide sufficient time for the market administrator to process handler reports, announce a uniform price for the market and clear the pool, in order that final payments to producers may be made by the 15th day of the following month, as presently provided. The market administrator will announce the uniform price on or before the 12th day, will receive payments owed by handlers to the producer-settlement fund on the 13th day, and will make payments to handlers from the fund on or before the 14th day

after the end of the month. The date for payments to the administrative and marketing service funds should be advanced to the 13th day after the end of the month to correspond with the date for making payments to the producer-settlement fund.

Partial payments to producers for milk delivered during the first 15 days of the month are due under the present order on or before the 28th day of such month. Customarily, however, handlers pay producers by the 25th day and such payments are required on this date under other nearby orders. The date for such payments should be advanced to the 25th day of the month.

Cooperatives under the present order receive payments for member milk 2 days in advance of payments made by handlers to nonmember producers. In order to avoid requiring payments by handlers in advance of payments from the pool by the market administrator, only 1 day in advance of final payments is provided. This should give opportunity for all producers to receive payment at the same time.

(b) Any unpaid obligation of a handler to the market administrator for each month or portion thereof that such obligation is overdue to the producer-settlement fund, marketing service fund, and administrative expense fund shall require the payment of interest.

This provision is included in many other orders. Incorporating such provision in this order will tend to assure prompt payment of amounts due and is essential to effective operation of the order. Of course, the establishment of an interest charge will have no effect on handlers who consistently pay their obligations promptly.

The payment of interest on overdue obligations of handlers to the market administrator will tend to encourage payment of outstanding amounts on or before the specified date. If amounts owed are not paid on time, other persons are affected because payments from the several accounts necessarily would be reduced until the obligations were paid. Interest would be computed on the first day of the month next following the due date and would be increased at the same rate on the first day of each month thereafter until paid.

(c) The market administrator should report by the 12th day after the end of the month to each cooperative association which so requests the amount and classification of milk received by each handler from cooperative association member producers. The report shall show milk received from the cooperative association members and the amount assigned to each class in the proportion that the total producer milk in each class is to the total receipts of producer milk by such handler.

A handler suggested that the same provision now contained in the San Antonio milk order be used for the purpose of this report to cooperative associations. The proponent cooperative accepted the suggestion. The provision of the San Antonio order is adopted herein for use in making such reports under this order.

(d) Assignment of Class I location credits should be expanded to transfers between all pool plants instead of being limited as at present to milk moved between pool plants of the same handler.

Under the present order with a blend price computed for each handler such transfers between pool plants of the same handler have no effect on blend prices of other handlers, with respect to other transfers, there has been little need for such limits. With market pooling, Class I location credits should be assigned on bulk transfers from another pool plant to any available Class I utilization at the transferee plant in excess of 95 percent of producer milk, and milk from unregulated supply plants and from other order plants assigned to Class I. This assignment procedure will protect the marketwide uniform price to producers by lessening the opportunity for handlers to move milk between pool plants for manufacturing use at lower class prices with transportation cost borne by producers. The present provision allowing credit and transfers on packaged milk should be retained and made applicable to all transfers.

(e) A "new producer" definition should not be included in the amended order.

A handler proposed the addition of such a provision to afford protection against any influx of outside producers not now associated with the market. He proposed that for a period of 3 months from the time milk is first received at a pool plant from a person who is not now a producer, and whose milk is produced outside the marketing area, such person should receive the lowest class price for his milk instead of the uniform price. At the end of 3 months a "new producer" would become an "old producer" and receive the uniform price thereafter. The new producer provision would apply only when the milk is in a "surplus condition". Such surplus condition was not specifically defined by the handler except that any producer milk diversions from pool plants would represent a surplus condition.

The handler would not include in the "new producer" category any dairy farmer residing in the marketing area nor would he include any person who purchases a base under the Class I base plan operated by the major cooperative.

The Agricultural Marketing Agreement Act of 1937, as amended, in § 608c(5) (D) provides for inclusion of such a provision in a milk order. The statutory authority states " * * * in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of 2 full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order * * *".

A "new producer" provision is not used under Federal milk orders now in effect.

The authority for such provision does not authorize discrimination between producers on the basis of whether they reside inside or outside the marketing area. Neither is there any authority to distinguish between producers holding bases under a privately operated plan and those who do not hold such bases. Since the proposed "new producer" definition does not conform to the plan authorized, it should not be adopted. No evidence was presented on a plan which is authorized.

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 to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

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

Recommended marketing agreement and order. The following order regulating the handling of milk in the Corpus Christi, Tex., marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

DEFINITIONS

Sec.	
1130.1	Act.
1130.2	Secretary.
1130.3	Department.
1130.4	Person.
1130.5	Cooperative association.
1130.6	Corpus Christi, Tex., marketing area
1130.7	Plant.
1130.8	Distributing plant.
1130.9	Supply plant.
1130.10	Pool plant.
1130.11	Nonpool plant.

Sec.	
1130.12	Handler.
1130.13	Producer.
1130.14	Producer milk.
1130.15	Producer-handler.
1130.16	Fluid milk products.
1130.17	Other source milk.
1130.18	Route disposition.
1130.19	Butter price.
	MARKET ADMINISTRATOR
1130.20	Designation.
1130.21	Powers.
1130.22	Duties.
	REPORTS, RECORDS, AND FACILITIES
1130.30	Reports of receipts and utilization.
1130.31	Payroll reports.
1130.32	Other reports.
1130.33	Records and facilities.
1130.34	Retention of records.
	CLASSIFICATION
1130.40	Basis of classification.
1130.41	Classes of utilization.
1130.42	Assignment of shrinkage.
1130.43	Responsibility of handlers and reclassification of milk.
1130.44	Transfers.
1130.45	Computation of the skim milk and butterfat in each class.
1130.46	Allocation of skim milk and butterfat classified.
	MINIMUM PRICES
1130.51	Class prices.
1130.52	Butterfat differentials to handlers.
1130.53	Location differentials to handlers.
1130.54	Use of equivalent prices.
	APPLICATION OF PROVISIONS
1130.60	Plants subject to other Federal orders.
1130.61	Obligation of handler operating a partially regulated distributing plant.
1130.62	Producer-handler.
	DETERMINATION OF UNIFORM PRICE
1130.70	Computation of the net pool obligation of each pool handler.
1130.71	Computation of aggregate value used to determine uniform price.
	PAYMENTS
1130.80	Time and method of payment.
1130.81	Butterfat differentials to producers.
1130.82	Location adjustments to producers.
1130.83	Producer-settlement fund.
1130.84	Payments to the producer-settlement fund.
1130.85	Payments out of the producer-settlement fund.
1130.86	Adjustment of accounts.
1130.87	Marketing services.
1130.88	Expense of administration.
1130.89	Termination of obligation.
	EFFECTIVE TIME, SUSPENSION, OR TERMINATION
1130.90	Effective time.
1130.91	Suspension or termination.
1130.92	Actions after suspension or termination.
1130.93	Liquidation.
	MISCELLANEOUS PROVISIONS
1130.100	Agents.
1130.101	Separability of provisions.
	DEFINITIONS
§ 1130.1	Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reen-

acted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1130.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1130.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1130.4 Person.

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

§ 1130.5 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"; and

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

§ 1130.6 Corpus Christi, Tex., marketing area.

"Corpus Christi, Tex., marketing area," called the "marketing area" in this part means all the territory within the counties of Brooks, Cameron, Duval, Hidalgo, Jim Wells, Kleberg, Live Oak, Nueces, and San Patricio, all in the State of Texas.

§ 1130.7 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed or packaged. Separate facilities without storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

§ 1130.8 Distributing plant.

"Distributing plant" means a plant from which Grade A fluid milk products are disposed of during the month on a route(s) in the marketing area.

§ 1130.9 Supply plant.

"Supply plant" means any plant approved by an appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a distributing plant.

§ 1130.10 Pool plant.

"Pool plant" means:

(a) Any distributing plant, except a producer-handler plant or an other order plant, from which during the month:

(1) The disposition of fluid milk products within the marketing area on routes is 10 percent or more of the receipts of Grade A milk at such plant; and

(2) The total disposition of fluid milk products on routes is 50 percent or more of the receipts of Grade A milk at such plant;

(b) A supply plant:

(1) During any month in which 50 percent or more of the receipts of Grade A milk from dairy farmers and handlers pursuant to § 1130.12(d) at such plant is moved as fluid milk products to pool distributing plants; or

(2) During each of the months of January through August, if such plant was a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding months of September through December, unless the operator of such plant has filed with the market administrator before the first day of any month written request that such plant not be a pool plant for each month through August during which it does not otherwise qualify as a pool plant; or

(c) Any plant located in the marketing area and operated by a cooperative association approved by any duly constituted State or municipal health authority, and at which milk is received from dairy farmers holding permits or authorizations from such health authority, if 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from a plant of the cooperative association.

§ 1130.11 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 Federal 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) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution as Grade A milk in the marketing area are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

(d) "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 labeled Grade A in consumer-type packages or dispenser units are disposed of on routes in the marketing area during the month.

§ 1130.12 Handler.

"Handler" means:

- (a) Any person in his capacity as the operator of a pool plant;
- (b) Any person in his capacity as the operator of a partially regulated distributing plant;
- (c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant of another handler to a nonpool plant for the account of such cooperative association;
- (d) Any cooperative association with respect to milk of its producer members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association;
- (e) Any person in his capacity as the operator of an other order plant from which route disposition of fluid milk products is made in the marketing area; or
- (f) A producer-handler.

§ 1130.13 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which is:

- (1) Received at a pool plant; or
- (2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1130.14.

(b) "Producer" shall not include:

- (1) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each have requested Class III classification (or comparable classification) of such milk in the reports of receipts and utilization filed with their respective market administrators; and
- (2) Any person with respect to milk produced by him which is diverted to an other order plant if such person is designated as a producer under the other order with respect to such milk.

§ 1130.14 Producer milk.

"Producer milk" means skim milk and butterfat for each handler's account in milk from producers as follows:

- (a) With respect to operations of a pool plant:
 - (1) Received directly from such producers;
 - (2) Received from a cooperative association handler pursuant to § 1130.12(d); and
 - (3) Diverted by the operator of such pool plant to a nonpool plant for his account, subject to the conditions of paragraph (c) of this section.
- (b) With respect to additional receipts by a cooperative association handler:
 - (1) Diverted by such cooperative association from the pool plant of another

handler to a nonpool plant for the account of such cooperative association, subject to the conditions of paragraph (c) of this section; and

(2) Received by such cooperative association from producers' farms as a handler pursuant to § 1130.12(d) in excess of the quantity delivered to pool plants pursuant to paragraph (a) (2) of this section.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account a total quantity of milk not in excess of one-third of the total producer milk of its members received at all pool plants during the month. Diversions in excess of such quantity shall not be producer milk and the diverting cooperative shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the cooperative association fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such cooperative association;

(2) A handler operating a pool plant may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity not in excess of one-third of the milk at such pool plant during the month from producers who are not members of such a cooperative association. Milk diverted in excess of such quantity shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler; and

(3) For the purposes of location adjustments pursuant to §§ 1130.53 and 1130.82, diverted milk shall be priced at the location of the nonpool plant to which diverted.

(4) For purposes of determining qualification of pool plants pursuant to § 1130.10 (a) and (b), milk diverted pursuant to paragraph (a) (3) of this section shall be considered receipts of Grade A milk at the plant from which diverted.

(5) For purposes of determining qualification of pool plants pursuant to § 1130.10 (a) and (b), milk diverted pursuant to paragraph (a) (3) of this section shall be considered receipts of Grade A milk at the plant from which diverted.

§ 1130.15 Producer-handler.

"Producer-handler" means any person who:

- (a) Produces milk and operates a distributing plant;
- (b) Receives no milk from other dairy farmers;
- (c) Disposes of no other source milk as Class I milk except:
 - (1) That represented by nonfat solids used in the fortification of fluid milk products; or
 - (2) Yogurt in packaged form and cream in prepackaged tetrapaks (one-half fluid ounce capacity) if such products are made from milk classified and priced as Class I milk under any Federal order;
- (d) Receives during the month from pool plants milk or fluid milk products in

a total quantity of not more than 10,000 pounds, or 5 percent of his Class I disposition, whichever is less; and

(e) Furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1130.16 Fluid milk products.

"Fluid milk products" means all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk drinks, cream, cultured sour cream and sour cream products labeled Grade A, and any mixture of cream and milk or skim milk (other than frozen cream, aerated cream products, eggnog, ice cream, ice cream mix or other frozen mixes, evaporated or condensed milk and milk products contained in hermetically sealed containers); *Provided*, That when nonfat milk solids are added for "fortification", the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1130.17 Other source milk.

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

- (a) Receipts at a pool plant during the month of fluid milk products except (1) fluid milk products received from other pool plants, (2) producer milk; and
- (b) Products other than fluid milk products, from any source (including those processed at the plant), which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established.

§ 1130.18 Route disposition.

"Route disposition", or "disposed of on routes", means any delivery (including any delivery by a vendor or disposition at a plant store) of fluid milk products other than a delivery to a milk plant.

§ 1130.19 Butter price.

"Butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

MARKET ADMINISTRATOR

§ 1130.20 Designation.

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

§ 1130.21 Powers.

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

- (a) To administer its terms and provisions;
- (b) To receive, investigate, and report to the Secretary complaints of violations;
- (c) To make rules and regulations to effectuate its terms and provisions; and
- (d) To recommend to the Secretary amendments to this part.

§ 1130.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties 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 § 1130.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1130.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Verify all reports and payments of each handler by audit of such handler's records and the records of any other handler or person upon whose disposition of milk such handler claims classification of skim milk and butterfat and by such investigation as the market administrator deems necessary;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts has not made reports pursuant to §§ 1130.30 to 1130.32, has not maintained adequate records and facilities pursuant to § 1130.33, or made payments pursuant to §§ 1130.80, 1130.84, 1130.86, and 1130.88;

(i) Publicly announce, by posting in a conspicuous place in his office and by

such other means as he deems appropriate and notify each handler in writing:

(1) On or before the fifth day of each month, the minimum price for Class I milk computed pursuant to § 1130.51(a), and the Class I milk butterfat differential computed pursuant to § 1130.52(a) both for the current month, and the minimum price for Class II and Class III milk computed pursuant to § 1130.51(b) and (c) and the butterfat differential for Class II and Class III milk computed pursuant to § 1130.52(b) and (c), all for the previous month; and

(2) On or before the 12th day after the end of each month the uniform price computed pursuant to § 1130.72; and the butterfat differential computed pursuant to § 1130.81;

(j) On or before the 12th day after the end of each month, mail to each handler at his last known address, a statement showing for such handler the amount and value of producer milk in each class and the totals thereof; and

(k) Prepare and make available for the benefit of producers, consumers and handlers such general statistics and such information concerning the operations hereof as are necessary and essential to the proper functioning of this part.

(l) On or before the 12th day after the end of each month report to each cooperative association, upon request by such association, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classifications to which such receipts are allocated pursuant to § 1130.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler who operates a pool plant (including a cooperative association in its capacity as a handler pursuant to § 1130.12(c)) and 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.

(o) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1130.46(a)(9) and the corresponding step of § 1130.46(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.

REPORTS, RECORDS, AND FACILITIES

§ 1130.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator as follows in the detail and on forms prescribed by the market administrator:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat in or represented by:

(i) Producer milk, showing separately receipts from producers and from each cooperative association bulk tank handler;

(ii) Receipts of fluid milk products from other pool plants; and

(iii) Other source milk, with the identity of each source.

(2) Inventories of fluid milk products at the beginning and end of the month:

(i) In packaged form; and

(ii) In bulk form.

(3) The utilization or disposition of all quantities required to be reported, showing separately:

(i) Total route disposition;

(ii) Route disposition in the marketing area;

(iii) Transfers to other pool plants;

(iv) Transfers to other order plants;

(v) Transfers to nonpool plants; and

(vi) Diversions to nonpool plants.

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1130.12(c) or (d):

(1) Receipts of skim milk and butterfat from producers;

(2) The quantities delivered to each pool plant and to each nonpool plant;

(3) The utilization of all such milk not delivered to a pool plant; and

(4) Such other information as the market administrator may require.

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

§ 1130.31 Payroll reports.

On or before the 20th day of each month, each handler operating a pool plant(s), each cooperative association which is a handler pursuant to § 1130.12(c) or (d), and each handler operating a partially regulated distributing plant and making payments pursuant to § 1130.61(a), shall submit to the market administrator his producer payroll (or in the latter case, his payroll for dairy farm-

ers delivering Grade A milk) for deliveries made in the preceding month which shall show:

(a) The total pounds and the average butterfat test of milk received from each producer and cooperative association, the number of days, if less than the entire month, for which milk was received from such producer;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 1130.32 Other reports.

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

(b) Each handler operating an other order plant with route disposition in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of the month.

(c) Each handler who causes milk to be delivered for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 1130.33 Records and facilities.

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

(a) The receipts and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and other milk products handled;

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

(d) Payments to producers and cooperative associations including any deductions authorized by producers and disbursement of money so deducted.

§ 1130.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice the handler shall retain such books and records, until further written notifica-

tion 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

§ 1130.40 Basis of classification.

The skim milk and butterfat which are required to be reported pursuant to § 1130.30 shall be classified by the market administrator, subject to the provisions of §§ 1130.41 through 1130.45, inclusive. If any of the water contained in the milk from which a product is made has been removed, before it is utilized or disposed of by the handler, the pounds of skim milk 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 such solids.

§ 1130.41 Classes of utilization.

Subject to the conditions set forth in §§ 1130.43 and 1130.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except those fluid milk products classified pursuant to subparagraphs (2), (3), and (4) of paragraph (c) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not specifically accounted for as Class II milk or as Class III milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat in fluid milk products used to produce or added to cottage cheese or cottage cheese curd, except as classified pursuant to subparagraphs (2) and (3) of paragraph (c) of this section; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product or cottage cheese;

(2) In fluid milk products or cottage cheese (in excess of that classified pursuant to subparagraph (10) of this paragraph) disposed of for livestock feed;

(3) In fluid milk products or cottage cheese (in excess of that classified pursuant to subparagraph (10) of this paragraph) dumped after notification to and opportunity for verification as may be requested by the market administrator;

(4) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(5) Contained in any fluid milk product which has been fortified with additional milk solids not fat which is in excess of the pounds classified as Class I milk pursuant to paragraph (a)(1) of this section;

(6) In inventory of bulk fluid milk products on hand at the end of the month;

(7) In actual shrinkage at each plant but not in excess of the following limitations:

(i) 2 percent of receipts directly from producers; plus

(ii) 1.5 percent of receipts from a cooperative association handled pursuant to § 1130.12(d), except that if the handler operating the pool plant files notice with market administrator that he is accounting for such milk on the basis of farm weights and tests determined by the cooperative association the applicable percentage shall be 2 percent; plus

(iii) 1.5 percent of bulk fluid milk products (except cream) received from other pool plants; plus

(iv) 1.5 percent of bulk fluid milk products received from other order plants, exclusive of the quantity for which Class III utilization was requested by the handlers; plus

(v) 1.5 percent of bulk fluid milk products received from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) 1.5 percent of bulk fluid milk products (except cream) disposed of to other milk plants, except, in the case of milk diverted to a nonpool plant, if the operator of the plant to which the milk is diverted accounts for such milk on the basis of farm weights and tests, the applicable percentage shall be 2 percent.

(8) In shrinkage of skim milk and butterfat, respectively, in other source milk assigned pursuant to § 1130.42(b);

(9) In shrinkage of skim milk and butterfat, respectively, resulting from milk for which a cooperative association is the handler pursuant to § 1130.12(c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of the quantity received from producers, exclusive of receipts for which farm weights and tests are used as the basis of receipt at the plant to which delivered; and

(10) In nonfluid products used to produce cottage cheese or cottage cheese curd.

§ 1130.42 Assignment of shrinkage.

The market administrator shall prorate the total shrinkage of skim milk and butterfat, respectively, computed at each pool plant between the following:

(a) Skim milk and butterfat in amounts, respectively, equal to 50 times the maximum quantities that may be computed pursuant to § 1130.41(c)(7); and

(b) The skim milk and butterfat, respectively, in other source milk received as bulk fluid milk products, exclusive of the other source milk specified in § 1130.41(c)(7).

§ 1130.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified otherwise. With respect to milk received for delivery to

a pool plant by a cooperative association handler pursuant to § 1130.12(d), the operator of the pool plant shall have the burden of proving the classification of the skim milk and butterfat defined in § 1130.14(a)(2);

(b) Milk received by a handler pursuant to § 1130.12(d) shall be classified according to use or disposition at the receiving plant and the value thereof at class prices shall be included in the receiving handler's net obligation pursuant to § 1130.70; and

(c) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses the original classification was incorrect.

§ 1130.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred in the form of fluid milk products from a pool plant to another pool plant subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1130.46(a)(9) and the corresponding step of § 1130.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1130.46(a)(4) and the corresponding step of § 1130.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I (then Class II) utilization to such other source milk; and

(3) If the handler transferring to the pool plant of another handler received during the month other source milk to be allocated pursuant to § 1130.46(a)(8) or (9) and the corresponding steps of § 1130.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I (or Class II) milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred in the form of fluid milk products from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of bulk milk, skim milk, or cream to a nonpool plant that is not an other order plant or a plant of a producer-handler, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred 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 § 1130.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which

are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I milk utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I milk utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I milk utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I milk utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent of such uses at the plant and then as Class II milk;

(d) On the basis of the conditions and the allocation procedure described in paragraph (c) of this section at a second nonpool plant, that is neither an other order plant, nor a producer-handler plant, when transferred or diverted from the pool plant as milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, and from which all receipts of milk or skim milk are moved in bulk to such second nonpool plant for further processing;

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in Class I if allocated as a fluid milk product to Class I under the other order, in Class II if allocated to Class II under an order which provides

three classes and in Class III if allocated to Class III under the other order or if allocated to Class II under an order which provides only two classes (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 or diversions in bulk form shall be classified as Class III milk to the extent of the Class III milk utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I milk subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for only two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and milk allocated to another class shall be classified as Class III milk; 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 § 1130.41.

§ 1130.45 Computation of the skim milk and butterfat in each class.

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1130.30 for each pool plant of each handler, and compute the pounds of skim milk and butterfat in each class for such plant;

(b) If no fluid milk products to be assigned pursuant to § 1130.46(a)(8) or (9) were received at any of his pool plants, allocations pursuant to § 1130.46 and computation of obligations pursuant to § 1130.70 shall be made separately for each pool plant of a handler with two or more pool plants;

(c) Unless the conditions specified in paragraph (b) of this section apply, the market administrator shall combine the receipts and utilization (exclusive of utilization based upon movements between such plants) at all pool plants of such handler for purposes of allocation pursuant to § 1130.46 and computation of obligation pursuant to § 1130.70; and

(d) The market administrator shall determine the classification, allocation and pool obligation with respect to producer milk for which a cooperative association is accountable pursuant to § 1130.12(c) and (d) separately from the operations of any pool plant operated by such cooperative association. The pounds of skim milk and butterfat so determined in each class shall be used for computation pursuant to § 1130.46(c).

§ 1130.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1130.45, the market administrator shall determine the classification of producer milk for each handler (or pool plant, if applicable) as follows:

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

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk classified as Class III milk pursuant to § 1130.41(c)(7);

(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 III 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) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class in series beginning with Class III milk, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order.

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III milk but not in excess of such quantity:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II or Class III milk utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II or Class III milk utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of bulk fluid milk products (and for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class III milk the pounds

subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5) (i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5) (i) of this paragraph:

(i) In series beginning with Class III milk, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1130.22(c) or the percentage that Class II and Class III milk utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I milk, the remaining pounds of such receipts;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers (or other pool plants, if applicable) according to the classification assigned pursuant to § 1130.44(a); and

(11) If the pounds of skim milk remaining in each class 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 III milk. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraph (a) and (b) of this section and § 1130.45(d) for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1130.51 Class prices.

Subject to the provisions of §§ 1130.52 and 1130.53, the minimum prices per hundredweight to be paid by each handler for milk received at his pool plant from producers during the month shall be as follows:

(a) *Class I price.* The Class I milk price shall be the price for Class I milk established under Part 1126 (North Texas) of this chapter plus 75 cents.

(b) *Class II price.* The Class II milk price shall be the Class III milk price for the month plus 25 cents.

(c) *Class III price.* The Class III milk price shall be the price computed pursuant to subparagraph (1) of this paragraph except that for the months of March, April, May, and June, 12 cents shall be deducted from such price:

(1) The sum of the plus values of subdivisions (i) and (ii) of this subparagraph, less five times the butterfat differential computed pursuant to § 1130.52 (c);

(i) Subtract three cents from the Chicago butter price, add 20 percent thereof, and multiply by 4.0; and

(ii) From the weighted average of carlot prices per pound for nonfat dry milk, spray process, 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 of Agriculture deduct 5.5 cents and multiply by 8.16.

§ 1130.52 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class pursuant to § 1130.46 is more or less than 3.5 percent, there shall be added to the respective class price, computed pursuant to § 1130.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 3.5 percent an amount equal to the butterfat differential computed by multiplying the butter price for the appropriate month by the applicable factor listed below and rounding to the nearest one-tenth cent:

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

(b) *Class II milk.* Multiply the butter price for the current month by 0.110; and

(c) *Class III milk.* Multiply the butter price for the current month by 0.110.

§ 1130.53 Location differential to handlers.

(a) For milk which is received from producers or a cooperative association at a pool plant located more than 80 miles, but not more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.51(a) shall be reduced 9 cents per hundredweight and for milk which is received from producers or a cooperative association at a pool plant located more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.51(a) shall be reduced 1-cent per hundredweight for each 10 miles distance or fraction thereof that such plant is from the city hall in Mercedes, Tex.

(b) For purposes of calculating such location adjustment, transfers between pool plants shall be assigned Class I location credit as follows:

(1) If in packaged form without limit; and

(2) If in bulk form, to the extent that Class I disposition at the transferee plant exceeds the sum of (1) 95 percent of re-

ceipts at such plant from producers and cooperative associations pursuant to § 1130.12(d), (ii) the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and (iii) assignments pursuant to subparagraph (1) of this paragraph, such assignment to be made first to transferor plants having the same Class I price, then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

§ 1130.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1130.60 Plants subject to other Federal orders.

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

(a) A plant meeting the requirements of § 1130.10(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless notwithstanding the provisions of this paragraph, it is regulated under such other order.

(b) A plant meeting the requirements of § 1130.10(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines a greater quantity of Class I 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 Federal order.

(c) A plant meeting the requirements of § 1130.10(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months January through August, if such plant retains automatic pooling status under this part.

§ 1130.61 Obligation of 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 §§ 1130.30 and 1130.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1130.70 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 (or Class III) milk if allocated to such classes at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1130.70(e) and a credit computed at the uniform price with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1130.30 and 1130.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1130.9, with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

2. From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes 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 uniform price applicable at such location (not to be less than the Class III price).

§ 1130.62 Producer-handler.

Sections 1130.40 through 1130.46, 1130.51 through 1130.54, 1130.70 through 1130.72, and 1130.80 through 1130.89 shall not apply to a producer-handler.

DETERMINATION OF UNIFORM PRICE

§ 1130.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (at each pool plant, if applicable) 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 § 1130.46(c), by the applicable class prices (adjusted pursuant to §§ 1130.52 and 1130.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1130.46(a)(11) and the corresponding step of § 1130.46(b) by the applicable class prices (adjusted pursuant to §§ 1130.52 and 1130.53);

(c) Add the amount obtained from multiplying the difference between the Class III 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 § 1130.46(a)(6) and the corresponding step of § 1130.46(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 III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1130.46(a)(4) and the corresponding step of § 1130.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1130.46(a)(8) and the corresponding step of § 1130.46(b);

(f) Add the amount obtained from multiplying the difference between the Class III milk price for the preceding month and the Class II milk price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1130.46(a)(6) and the corresponding step of § 1130.46(b) for the current month; or

(2) The hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1130.46(a)(9) and the corresponding step of § 1130.46(b) for the preceding month, less the hundredweight used in computations pursuant to paragraph (c) of this section; and

(g) Add an amount determined by multiplying the difference between the Class I 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 § 1130.46(a)(3) and the corresponding step of § 1130.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount.

§ 1130.71 Computation of aggregate value used to determine uniform price.

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1130.70 for all handlers who made the reports prescribed in § 1130.30 and who made the payments pursuant to § 1130.80 for the preceding months;

(b) Add not less than one-fourth of the unobligated cash balance on hand in the producer-settlement fund;

(c) Subtract, if the average butterfat content of the milk specified in § 1130.72 (a) is greater than 3.5 percent or add, if such average 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 § 1130.81 and multiplying the resulting figure by the total hundredweight of such milk; and

(d) Add the aggregate of the values of the minus location differentials pursuant to § 1130.82.

§ 1130.72 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight applicable for milk of 3.5 percent butterfat content at pool plants at which no location differential applies as follows:

(a) Divide the aggregate value computed pursuant to § 1130.71 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 § 1130.70(e); and

(b) Subtract not less than 4 cents nor more than 5 cents.

PAYMENTS

§ 1130.80 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall

make payment to each producer for milk received from such producer as follows:

(1) On or before the 25th day of each month, to each producer who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month at not less than the Class III milk price for the preceding month;

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount not less than the uniform price computed pursuant to § 1130.72, subject to the butterfat differential computed pursuant to § 1130.81 and the location differential computed pursuant to § 1130.82, plus or minus adjustments for errors made in previous payments to such producers, and less:

(i) Payments made pursuant to subparagraph (1) of this paragraph;

(ii) Marketing service deductions pursuant to § 1130.87; and

(iii) Proper deductions authorized by such producer;

(3) If by the date for payment pursuant to subparagraph (2) of this paragraph, a handler has not received full payment for such month pursuant to § 1130.85, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association, which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 23d and 14th days of each month in lieu of payments pursuant to paragraph (a) (1) and (2), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association;

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of

such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) In making the payments pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount of the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producers.

(d) As follows, to each cooperative association for milk for which it is the handler, pursuant to § 1130.12 (d):

(1) On or before the 23d day of the month, a partial payment for milk received during the first 15 days of such month, at not less than the amount specified in paragraph (b) of this section; and

(2) On or before the 14th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price, less the amount of payment made pursuant to subparagraph (1) of this paragraph.

(e) On or before the 14th day after the end of the month, for milk received from the pool plant of a cooperative association, to such cooperative association not less than the value of such milk at the applicable price(s) for the class(es) at which transferred pursuant to § 1130.44(a).

§ 1130.81 Butterfat differentials to producers.

In making payments to producers pursuant to § 1130.80, the uniform price shall be increased or decreased for each one-tenth of 1 percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 1130.52, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 1130.82 Location adjustments to producers.

In making payments pursuant to § 1130.80, the uniform price computed pursuant to § 1130.72 to be paid for such milk received at a pool plant at which a location differential pursuant to § 1130.53 applies may be reduced by the amount of such location adjustments.

§ 1130.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", into which he shall deposit all payments made by handlers pursuant to §§ 1130.61, 1130.84, and 1130.86, and out of which he shall make all payments to handlers pursuant to §§ 1130.85 and 1130.86.

§ 1130.84 Payments to the producer-settlement fund.

On or before the 13th 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 § 1130.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price computed pursuant to § 1130.72, and

(2) The value at the uniform price applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1130.70(e).

§ 1130.85 Payments out of the producer-settlement fund.

On or before the 14th 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 § 1130.84(b) exceeds the amount computed pursuant to § 1130.84(a). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. Any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler, pursuant to §§ 1130.84, 1130.86, 1130.87, or 1130.88.

§ 1130.86 Adjustment of accounts.

(a) *Payments.* Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due:

(1) The market administrator from such handler;

(2) Such handler from the market administrator; or

(3) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler or any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

(b) *Overdue accounts.* Any unpaid obligation of a handler pursuant to §§ 1130.84, 1130.87, 1130.88, or paragraph (a) (1) of this section shall be increased

one-half of one percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

§ 1130.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1130.80, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator, on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of milk from producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1130.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1130.14(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1130.46(a)(4) and (8) and the corresponding steps of § 1130.46(b); and

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

§ 1130.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 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 information:

(1) The amount of the obligation;

(2) The month(s) during which the milk with respect to which the obligations exists, was received or handled; and

(3) 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 representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(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.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION**§ 1130.90 Effective time.**

The provisions of this part or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1130.91.

§ 1130.91 Suspension or termination.

The Secretary may suspend or terminate this subpart or any provision of this part whenever he finds this part or any provision hereof obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 1130.92 Actions after suspension or termination.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1130.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1130.100 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.

§ 1130.101 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.

Signed at Washington, D.C., on January 8, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-397; Filed, Jan. 10, 1969; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 17873; RM-320]

STANDARD BROADCAST STATIONS OPERATED BY REMOTE CONTROL

Permission To Transmit Telemetry Signals Directly Related to the Technical Operation of the Broadcast Station; Order Extending Time for Filing Comments and Reply Comments

1. The presently applicable deadlines for filing additional comments and reply comments in this proceeding are January 6, 1969, and January 20, 1969, respectively. These dates were established by Order adopted September 9, 1968, in response to a petition filed by the National Association of Broadcasters (NAB) after the expiration of previously set filing dates, in which petition the desirability was cited for further field tests of the feasibility of using intermittent low frequency tones on the broadcast carrier for telemetry purposes.

2. Moseley Associates, Inc. (Moseley), whose petition prompted the initiation of this proceeding by a notice of proposed rule making issued November 15, 1967, has been conducting field tests as contemplated under the current extension. In a telegram dated December 30, 1968, Moseley states that illness and heavy work commitments have delayed preparation of a formal report of the results of such tests; accordingly an extension of ten days of the period in which to file additional comments is requested.

3. The information which Moseley will submit will be useful to us in reaching a decision in this proceeding, and the moderate amount of additional time requested will not appreciably delay its conclusion. Accordingly, it is ordered, That the time for filing additional comments in this proceeding is extended from January 6, 1969, to January 16, 1969, and for filing reply comments thereto from January 20, 1969, to January 30, 1969.

4. This action is taken pursuant to authority found in sections 4(i), 5(d) (1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 (d) (8) of the Commission's rules.

Adopted: January 3, 1969.

Released: January 7, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 69-384; Filed, Jan. 10, 1969; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 10]

PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

Notice of Extension of Time for Filing Comments

On December 20, 1968, there was published in the FEDERAL REGISTER (33 F.R. 19019), notice of proposed revision of the Department's Procedures for the Development of Voluntary Product Standards. Interested parties were invited to participate in the proposed rule-making by submitting written comments or suggestions, in duplicate, to the Assistant Secretary for Science and Technology.

Following publication of the above notice, valid requests for an extension of the time for filing comments have been received by the Department. Accordingly, interested parties are hereby granted until January 31, 1969, to submit written comments or suggestions relative to the proposed revision to the Assistant Secretary for Science and Technology, Department of Commerce, Washington, D.C. 20230.

Issued: January 7, 1969.

JOHN F. KINCAID,
Assistant Secretary
for Science and Technology.

[F.R. Doc. 69-367; Filed, Jan. 10, 1969; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ALDO M. LOVISI

Notice of Granting of Relief

Notice is hereby given that Aldo M. Lovisi, 8123 Jerrylee Drive, Norfolk, Va., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transport, shipment, or possession of firearms incurred by reason of his conviction on March 27, 1963, in the U.S. District Court, Eastern District of Virginia, of the crime of knowingly using the mails for mailing, carriage in the mails and delivery of an envelope containing obscene, lewd, lascivious, indecent, filthy, vile letter and pictures, in violation of section 1461, title 18, United States Code, a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Aldo M. Lovisi, because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under Chapter 44, title 18, United States Code, from obtaining a license under that Chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C. Appendix) because of such conviction it would be unlawful for Mr. Lovisi, to receive, possess, or transport a firearm in commerce or affecting commerce. Notice is hereby further given that I have considered Aldo M. Lovisi's application and have found:

The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of Chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Aldo M. Lovisi incurred by reason of his conviction, would not be contrary to the public interest.

It is ordered, Pursuant to the authority vested in the Secretary of the Treasury by section 925(c), of title 18, United States Code and delegated to me by the regulations in title 26, Part 178, Code of Federal Regulations, that Aldo M. Lovisi be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms, incurred by reason of the conviction hereinabove described. Signed at Washington, D.C. this 2d day of January 1969.

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

[F.R. Doc. 69-394; Filed, Jan. 10, 1969;
8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Filing of State Protraction Diagram

Correction

In F.R. Doc. 68-15555 appearing on page 18 in the issue of Wednesday, January 1, 1969, the second line under the center heading Mount Diablo Meridian, California should read "Secs. 2 to 6, inclusive;"

AREA MANAGERS; BURLEY DISTRICT, IDAHO

Redelegation of Authority

In accordance with Bureau Order No. 701 of July 23, 1964 (F.R. Doc. 64-7492; 29 F.R. 10526) as amended, the Area Managers of the Magic, Raft River, Malad, and Soda Springs Resource Areas of the Burley District, Idaho, are authorized to perform in their respective areas of responsibility, in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

(1) Section 3.3(d)—Trespass: Determine liability and accept damages for trespass on the public land and dispose of resources in trespass cases for not less than the appraised value thereof when the amount involved does not exceed \$500.

(2) Section 3.7(a): Licenses to graze or trail livestock.

(3) Section 3.7(a)(3): Permits or cooperative agreements to construct and/or maintain range improvements and determine the value of such improvements.

(4) Section 3.7(b): Grazing leases.

(5) Section 3.7(d): Soil and moisture conservation.

(6) Section 3.7(e): Controlled brush burning in accordance with plans and specifications approved by the State Director.

(7) Section 3.8—Forest Management: Area Managers of the Burley District may take all the action on: (a) Disposition of forest products except that sales of timber in excess of 10 million feet board measure must be approved by the State Director or his delegate prior to advertisement. Area Managers may dispose of or permit the free use of forest products when authorized by law on lands under the jurisdiction of the Bureau of Land Management under applicable portions of 43 CFR, Part 5400. This authority does not include the approval of any free use disposal of forest products exceeding \$100 in value.

(8) Section 3.9(g)—Land Use: Material other than forest products not exceeding \$100 in value.

(9) Section 3.9(m)—Rights-of-Way: Grant temporary rights-of-way over

public land and acquired land pursuant to 43 CFR 2234.2-3(a)(2).

The District Manager may at any time temporarily reserve, restrict, or withhold any portion of the above delegated authority through the use of Form 1213.1, District Office Authority and Responsibility Guides.

This delegation supersedes Delegation of Authority, published February 16, 1967 (F.R. Doc. 67-1763).

This redelegation will become effective upon publication in the FEDERAL REGISTER.

H. MAX BRUCE,
District Manager.

Approved:

JOE T. FALLINI,
State Director.

[F.R. Doc. 69-392; Filed, Jan. 10, 1969;
8:48 a.m.]

[New Mexico 4828]

NEW MEXICO

Notice of Classification

JANUARY 3, 1969.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below are hereby classified for disposal through exchange under Section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, for lands within Hidalgo County, N. Mex.

Two protests have been received following the publication of notice of proposed classification (33 F.R. 15605). These protests are properly based on the loss of tax base lands in the county if the privately owned lands are transferred into government ownership. No comments were received on the public lands going into private ownership.

The lands affected by this classification are located in De Baca, Lincoln, and Chaves Counties, N. Mex., and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 11 S., R. 18 E.

Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 12 S., R. 18 E.

Sec. 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,

and S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 8, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 9, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 10, S $\frac{1}{2}$ N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,

NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and

N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 15, NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and

N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 17, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and

SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 19, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,

and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 22, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 23, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 26, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and

N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 27;

Sec. 28, S $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 29, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and

S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 35, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$.

[New Mexico 4829]

NEW MEXICO

Notice of Classification

JANUARY 3, 1969.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below are hereby classified for disposal through exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, for lands within Hidalgo County, N. Mex.

Two protests have been received following the publication as notice of proposed classification (33 F.R. 15734-15735). These protests are properly based on the loss of tax base lands in the county if the privately-owned lands are transferred into private ownership which was withdrawn received on the public lands going into private ownership which was withdrawn.

The lands affected by this classification are located in De Baca, Guadalupe, Lincoln, Chaves, and Torrence Counties, N. Mex., and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 13 S., R. 18 E.,
Sec. 3, lot 4 and S $\frac{1}{2}$ N $\frac{1}{2}$.
T. 11 S., R. 19 E.,
Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
and W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 3 S., R. 20 E.,
Sec. 23, SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, and W $\frac{1}{2}$.
T. 3 S., R. 21 E.,
Sec. 20, W $\frac{1}{2}$;
Secs. 22 and 23;
Sec. 24, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
Sec. 25, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$;
Sec. 33, W $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$;
Sec. 34, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 35, NW $\frac{1}{4}$ and S $\frac{1}{2}$.
T. 3 S., R. 22 E.,
Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 15, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, lots 1, 2, NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ and SE $\frac{1}{4}$;
Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
Sec. 29, E $\frac{1}{2}$ E $\frac{1}{2}$ and W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 30, E $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 11 S., R. 22 E.,
Sec. 23, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$.
T. 12 S., R. 22 E.,
Sec. 10, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Secs. 11 and 14;
Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and W $\frac{1}{2}$
SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ S $\frac{1}{2}$, and N $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 22, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$
SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 24;
Sec. 25, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 3 S., R. 23 E.,
Sec. 15, S $\frac{1}{2}$;
Sec. 21, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 27, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 34, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$.
T. 5 S., R. 27 E.,
Sec. 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 3 S., R. 28 E.,
Sec. 10, SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 6 S., R. 30 E.,
Sec. 11, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$,
and S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 12, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and
NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 24, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 6 S., R. 31 E.,
Sec. 7, lots 2, 3, 4, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 17, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$,
and SE $\frac{1}{4}$;
Sec. 19, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 20,624.49 acres.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.12(d)).

H. DOYLE KLINE,
Acting State Director.

[F.R. Doc. 69-375; Filed, Jan. 10, 1969;
8:46 a.m.]

T. 3 N., R. 15 E.,
Sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 3 N., R. 16 E.,
Sec. 2, lots 1, 2, and S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 3;
Sec. 6, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$
SE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$;
Sec. 15, S $\frac{1}{2}$;
Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$
SE $\frac{1}{4}$;
Sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$;
Sec. 23;
Sec. 25, E $\frac{1}{2}$;
Sec. 26, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$.
T. 4 N., R. 16 E.,
Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 22, N $\frac{1}{2}$;
Sec. 23, N $\frac{1}{2}$;
Sec. 24, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, S $\frac{1}{2}$.
T. 5 N., R. 16 E.,
Sec. 18, lots 1 and 2.
T. 3 N., R. 17 E.,
Sec. 3, lots 1, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 4, S $\frac{1}{2}$;
Sec. 5;
Sec. 6, lots 1, 2, 5, and SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 8;
Sec. 9, W $\frac{1}{2}$;
Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 12, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 13, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$
SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Secs. 15 and 17;
Sec. 20, W $\frac{1}{2}$;
Secs. 21 and 22;
Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$
SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Secs. 27, 28, and 29.
T. 4 N., R. 17 E.,
Sec. 19, lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, lots 2, 3, and 4.
T. 3 N., R. 18 E.,
Sec. 18, lots 1, 2, 3, and NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 3 N., R. 23 E.,
Sec. 7, lot 3, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$
SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 17, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$;
Sec. 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 11 S., R. 19 E.,
Sec. 4, lot 5;
Sec. 14, lots 3, 4, and 6;
Sec. 15, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 11 S., R. 21 E.,
Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and
S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 11 S., R. 22 E.,
Sec. 7, lot 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 14, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lot 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 19, lots 3, 4, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$
SW $\frac{1}{4}$;
Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 29, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 30, lots 1, 2, 3, and E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 33, E $\frac{1}{2}$;
Sec. 34, S $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 12 S., R. 22 E.,
Sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$.

The lands described aggregate 19,512.65 acres.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.12(d)).

H. DOYLE KLINE,
Acting State Director.

[F.R. Doc. 69-376; Filed, Jan. 10, 1969;
8:46 a.m.]

National Park Service

[Order No. 1]

ADMINISTRATIVE ASSISTANT, NORTH
CASCADES NATIONAL PARKDelegation of Authority Regarding
Execution of Contracts for Supplies,
Equipment, or Services

1. The Administrative Assistant may execute, approve, and administer contracts not in excess of \$2,000 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriations. This authority may be exercised by the Administrative Assistant on behalf of any coordinated area.

(National Park Service Order No. 34 (31 F.R. 4255), as amended; 39 Stat. 535, 16 U.S.C., Sec. 2; Western Regional Order No. 4 (31 F.R. 5578)).

Dated: December 17, 1968.

JERRY W. HAMMOND,
Acting Superintendent,
North Cascades National Park.

[F.R. Doc. 69-355; Filed, Jan. 10, 1969;
8:45 a.m.]

[Order No. 1]

ADMINISTRATIVE OFFICER, REDWOOD NATIONAL PARK**Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment, or Services**

1. Administrative Officer: The Administrative Officer may execute, approve, and administer contracts not in excess of \$2,500 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriations. This authority may be exercised by the Administrative Officer on behalf of any coordinated area.

(National Park Service Order No. 34 (31 F.R. 4255), as amended; 39 Stat. 535, 16 U.S.C., Sec. 2; Western Regional Order No. 4 (31 F.R. 5578))

Dated: December 19, 1968.

NELSON MURDOCK,
Superintendent,
Redwood National Park.

[P.R. Doc. 69-356; Filed, Jan. 10, 1969; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**Food and Drug Administration
GULF OIL CORP.****Notice of Filing of Petition Regarding Pesticide Chemical**

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 9F0782) has been filed by Gulf Oil Corp., Gulf Building, Pittsburgh, Pa. 15230, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the herbicide barban (4-chloro-2-butynyl *m*-chlorocarbamate) in or on the raw agricultural commodities barley, flax, lentils, mustard seed, peas, safflower seed, soybeans, sugar beets, sunflower seed, and wheat at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is as follows: The sample is hydrolyzed with sodium hydroxide to form 3-chloroaniline which is steam distilled from the hydrolysate, diazotized, and coupled with *N*-1-naphthylethylene-diamine to form a dye. The absorbance of the dye is measured spectrophotometrically at 550 millimicrons.

Dated: January 1, 1969.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[P.R. Doc. 69-390; Filed, Jan. 10, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20580]

GROUP INCLUSIVE TOUR BASING FARES TO HAWAII**Notice of Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on Jan-

uary 22, 1969, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Robert M. Johnson.

Dated at Washington, D.C., January 8, 1969.

[SEAL]

THOMAS L. WRENN,
Chief Examiner.

[P.R. Doc. 69-401; Filed, Jan. 10, 1969; 8:48 a.m.]

**CIVIL SERVICE COMMISSION
PHARMACIST****Notice of Adjustment of Minimum Rate and Rate Range**

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has increased the minimum rate and rate range as follows:

GS-900-9 PHARMACIST

Geographic coverage: Indianapolis, Indiana, Standard Metropolitan Statistical Area.

Effective date: First day of the first pay period beginning on or after January 12, 1969.

PER ANNUM RATE

Grade	1 ¹	2	3	4	5	6	7	8	9	10
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 rate: GS-9—third.

All new employees in the specified occupational level will be hired at the new minimum rate.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational level. An employee who immediately prior to the effective date was receiving basic compensation at a rate of the statutory rate range shall receive basic compensation at the corresponding numbered rate authorized by this notice on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[P.R. Doc. 69-382; Filed, Jan. 10, 1969; 8:47 a.m.]

**DELAWARE RIVER BASIN
COMMISSION****COMPREHENSIVE PLAN****Notice of Public Hearing**

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on January 15, 1969. The hearing will take place in Room 1600, Municipal Services Building, 15th and Kennedy Boulevard, Philadelphia, beginning at 2 p.m. The hearing will be on the following subjects.

I. The sixth annual Water Resources Program as required and described by section 13.2 of the Delaware River Basin Compact. Recommended changes and additions to the annual Water Resources Program were released for public review on December 4, 1968.

II. Proposals to amend the Comprehensive Plan so as to include therein the following projects:

1. *Borough of Portland.* A well water supply project to augment public water supplies in the Borough of Portland, Northampton County, Pa. Designated as Well No. 3, the new facility is expected to yield 150 gallons per minute.

2. *Borough of Hatfield.* A well water supply project to augment public water supplies in the Borough of Hatfield, Montgomery County, Pa. Designated as Well No. 7, the new facility is expected to yield 250 gallons per minute.

3. *Borough of Topton.* A well water supply project to augment public water supplies in the Borough of Topton, Berks County, Pa. Designated as Well No. 4 and Springs Nos. 29, 32, 34, 36, and 37, the new facilities are expected to yield 42,500 gallons per day.

4. *North Penn Water Authority.* A well water supply project to augment public water supplies in the Authority's service area in Towamencin Township, Montgomery County, Pa. Designated as Well No. 17 the new facility is expected to develop 500 gallons per minute.

5. *Citizens Utilities Water Co.* A water well project to augment the company's water supply in its service area comprising Spring Township and the Boroughs of Sinking Spring, Wyomissing Hills and West Lawn in Berks County,

Pa. Designated as Well No. 20, the new facility will have a capacity of 0.497 million gallons daily.

Copies of the proposed changes in the annual Water Resources Program will be mailed to interested persons upon request or may be examined at the Commission offices. Documents relating to the proposed amendments to the Comprehensive Plan may be examined at the Commission offices. All persons wishing to testify at the public hearing are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

JANUARY 3, 1969.

[F.R. Doc. 69-371; Filed, Jan. 10, 1969;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18295-18300]

ORANGE COUNTY BROADCASTING CO. ET AL.

Memorandum Opinion and Order Enlarging Issues; Correction

In re applications of Orange County Broadcasting, Inc., Monte E. Livingston, Edward D. Tisch, Frank L. Bret, Thomas Walker and Richard S. Stevens, doing business as Orange County Broadcasting Co., Anaheim, Calif. et al., Docket No. 18295, File No. BPCT-4018; 18296, 18297, 18298, 18299, 18300; for construction permit for new television broadcast station.

1. In the eighth paragraph of the Review Board's Memorandum Opinion and Order 68R-532, released December 27, 1968, change "Orange County", which appears four times, to "Golden Orange".

Released: January 7, 1969.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-385; Filed, Jan. 10, 1969;
8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP69-76]

CHANDELEUR PIPE LINE CO.

Order Setting Date for Prehearing Conference

JANUARY 3, 1969.

Chandeleur Pipe Line Co. (Chandeleur), Post Office Box 1446, Louisville, Ky. 40201, filed on September 18, 1968, pursuant to section 7(c) of the Natural Gas Act, an application for a certificate of public convenience and necessity authorizing it to construct and operate additional natural gas pipeline facilities and to transport increased volumes of natural gas in interstate commerce.

Chandeleur proposes to construct and operate approximately 80 miles of 16-inch pipeline to completely loop its existing 12-inch pipeline extending from a point in the Main Pass Block 41 Field, offshore Louisiana to the refinery-chemical plant complex of Kentucky Standard Oil Co. (Kyso), an affiliate, located at Pascagoula, Miss., and also a measuring station and a regulating station.

The estimated total cost of the proposed facilities is \$9,200,000, which will be financed by a \$2 million capital contribution to be made by Chandeleur's parent company, Standard Oil Company of California, and by \$7,200,000 long-term borrowing.

Chandeleur transports gas for Kyso and Mississippi Power Co. (Mississippi), being presently certificated to transport 85,000 Mcf on an average calendar day basis and 112,000 Mcf on a maximum day for those two companies.

In order to meet Kyso's increased requirements for natural gas for fuel and as a raw material in the manufacture of fertilizer products and chemicals, Chandeleur requested authorization to transport increased volumes of natural gas to meet Kyso's future requirements estimated at approximately 190,000 Mcf on a peak day.

Notice of Chandeleur's application was published in the FEDERAL REGISTER on October 4, 1968, 33 F.R. 14907. The Public Service Commission of the State of New York filed a timely notice of intervention and requested a hearing. No petition to intervene or protest to the granting of the application was filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a prehearing conference on Chandeleur's application be held as hereinafter ordered.

The Commission orders:

(A) A prehearing conference to consider such matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the above-entitled case will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., commencing at 10 a.m., on March 11, 1969.

(B) The examiner designated shall specify the schedule for further proceedings in the light of such conference.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-352; Filed, Jan. 10, 1969;
8:45 a.m.]

[Docket No. E-7461]

IOWA POWER AND LIGHT CO.

Notice of Application

JANUARY 2, 1969.

Take notice that on December 20, 1968, Iowa Power and Light Co. (Applicant), filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing the sale

of certain electric facilities to the city of Ames, Iowa.

Applicant is incorporated under the laws of the State of Iowa with its principal business office in Des Moines, Iowa, and is engaged in the electric and natural gas utility business in 27 counties within the State of Iowa.

The facilities to be sold consists of approximately 3.6 miles of 69 kv electric transmission lines and certain appurtenant easements now within the recently extended corporate limits of the city of Ames, Iowa. The total purchase price of the facilities to be sold is \$58,320.

Any person desiring to be heard or to make protest with reference to said application should on or before January 27, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petition or protest in accordance with the requirements of the Commission's rules of practice and procedures (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-353; Filed, Jan. 10, 1969;
8:45 a.m.]

[Docket No. RP69-16, etc.]

MANUFACTURERS LIGHT AND HEAT CO. ET AL.

Notice of Proposed Changes in Rates and Charges

JANUARY 2, 1969.

The Manufacturers Light and Heat Co., Docket No. RP69-16; Home Gas Co., Docket No. RP69-17; The Ohio Fuel Gas Co., Docket No. RP69-18.

Notice is hereby given that The Manufacturers Light and Heat Co., Home Gas Co., and The Ohio Fuel Gas Co. (Respondents), each of which is an affiliate of the Columbia Gas System, Inc., on December 27, 1968, by separate applications tendered for filing proposed changes in their FPC Gas Tariffs to become effective February 10, 1969. The changes would increase rates and charges for gas sold for resale, based upon operations and sales for the year ended August 31, 1968, as adjusted in the following amounts: by Manufacturers \$5.8 million, by Home \$234,000, and by Ohio Fuel \$7.7 million.

In essentially similar statements, the Respondents each give four principal causes for their rate increase filings: (1) Certain of their gas suppliers have filed substantial rate increases; (2) changed economic conditions require an increase in rate of return to 7.5 percent; (3) experienced increases in costs of labor, supplies, expenses and construction; and (4) the current inflationary trends should be recognized in fixing the level of rates. Manufacturers and Home state they have included a 4 percent allowance for such inflation in their costs of service.

Protests, petitions to intervene, or notices of intervention in each of the above dockets may be filed with the Federal Power Commission, Washington, D.C.

20426, pursuant to the Commission's rules of practice and procedure on or before January 21, 1969.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-354; Filed, Jan. 10, 1969;
8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 687]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1968, because of the effects of certain disasters, damage resulted to residences and business property located in Shasta and Trinity Counties, in the State of California;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property, situated in the aforesaid counties, and areas adjacent thereto, suffered damage or destruction resulting from heavy snow storms occurring on December 22, 1968.

OFFICE

Small Business Administration Regional Office, 450 Golden Gate Avenue, Box 36044, San Francisco, Calif. 94102.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to July 31, 1969.

Dated: January 6, 1969.

HOWARD J. SAMUELS,
Administrator.

[F.R. Doc. 69-377; Filed, Jan. 10, 1969;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

ORGANIZATION MINUTES

Organization of Division and Boards and Assignment of Work

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of December 1968.

Section 17 of the Interstate Commerce Act, as amended (49 U.S.C. 17), and other provisions of law being under consideration with a view to consolidating the functions of the Temporary Authorities Board and the Transfer Board into the Motor Carrier Board.

It is ordered, That the Organization Minutes of the Interstate Commerce Commission relating to the Organization of Divisions and Boards and Assignment of work, issue of July 27, 1965 (30 F.R. 11189, 12559, 13099, and 14025; 31 F.R. 242, 4762, 9529, 12693, 13099, and 14025; 32 F.R. 431, 7105, 8000, 8784, 10127, and 14627; and 33 F.R. 3205, 7795, and 16543), be further amended as follows:

1. Item 7.4 is revised to read as follows:

7.4 Motor Carrier Board.

(a) Sections 210(a) and 311(a), relating to applications for temporary authority for service by common or contract carriers by motor vehicle or water, respectively, except applications involving broad questions or policy, matters in which the decision of the Board would be inconsistent with an order of the Commission or a division, and matters in which substantially the same question is already before the Commission or a division. Matters herein excepted from the Board's jurisdiction shall be certified to Division 1 under Item 7.4(f).

(b) Entry of show-cause orders under sections 204(c) and 212(a) relating to the failure of motor carriers to file annual reports.

(c) Determination of uncontested motor carrier, broker, water carrier, and freight forwarder suspension, change, or revocation proceedings under sections 212(a), 312a, and 410(f) which have not involved the taking of testimony at a public hearing.

(d) Determination of applications which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under section 204(a)(4) relating to transfer of brokers' licenses and changes in control of corporations or associations holding brokers' licenses; sections 206(a)(6) and (7) relating to transfer of certificates of registration and rights to operate pending determination of applications for certificates of registration; sections 212(b) and 312 relating to transfer of certificates and permits; and section 410(g) relating to transfer of permits.

(e) Any matter referred to the Board which is assigned for the taking of testimony at a public hearing shall be carried to a conclusion in accordance with the established practices and assignment of work of the Commission.

(f) The Board may certify to Division 1 any matter under (a), (b), and (c) above which in the Board's judgment should be passed on by that Division, or the Commission.

(g) The Board may certify to Division 3 any matter under (d) above which in the Board's judgment should be passed on by that Division, or the Commission.

2. Item 7.5 is deleted.

3. In Items 4.2(m), 4.2(o), 4.2(t), 4.3(n), and 8.4, the name "Temporary Authorities Board" is changed to read "Motor Carrier Board."

4. In Items 4.4(p), and 8.6, the name "Transfer Board" is changed to read "Motor Carrier Board."

5. In Item 4.4(p), the cross-reference to Item 7.5 in the last line is changed to Item 7.4.

6. In Item 8.6(a) the reference to "Item 7.5(a)" in the fourth line is changed to Item 7.4(d).

It is further ordered, That these amendments shall become effective January 21, 1969.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-380; Filed, Jan. 10, 1969;
8:47 a.m.]

[Notice No. 759]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 8, 1969.

The following are notices of filing of applications for temporary authority under section 210(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 107002 (Sub-No. 362 TA), filed January 2, 1969. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry pentachlorophenol, in bulk, in tank vehicles, from Port Neches, Tex., to points in Alabama, Arkansas, Louisiana, and Mississippi, for 180 days. Supporting shipper: Sonford Products Corp., Southern Division, Post Office Box 8474, Jackson, Miss. 39204. Send protests to: District Supervisor Alan C. Tarrant, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East

Amite Building, 145 East Amite Street, Jackson, Miss. 39201.

No. MC 116073 (Sub-No. 89 TA), filed January 2, 1969. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Box 601, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobile, and buildings, complete or in sections, on their own or removable undercarriages equipped with hitch ball coupler, in initial movement, from points in Marion County, Oreg., to points in California, Utah, Nevada, Idaho, Wyoming, Montana, and Washington, for 180 days. Supporting shipper: Redman Western Corp., New Moon Homes—Northwest Region, Silverton, Oreg. 97381. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 129645 (Sub-No. 4 TA) (Correction), filed December 16, 1968, pub-

lished FEDERAL REGISTER, issue of December 27, 1968, and republished as corrected this issue. Applicant: JOSEPH J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 Jackson Street, Iron Mountain, Mich. 49801. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced or finished with decorative and protective materials, and accessories and supplies* used in the installation thereof when moving with shipments of such wood fiberboard, from the warehouse sites of Masonite Corp. at Chicago, Ill., to points in Indiana, Michigan, Ohio, and Wisconsin, for 180 days. Note: The purpose of this republication is to correct commodity description, which was inadvertently omitted from previous register. Supporting shipper: Masonite Corp. (Frank E. Lawless, Assistant General Traffic Manager), 29 North Wacker Drive, Chicago, Ill. 60606. Send protests to: District Supervisor C. R. Flemming,

Interstate Commerce Commission, Bureau of Operations, 221 Federal Building, Lansing, Mich. 48933.

No. MC 133346 (Sub-No. 1 TA), filed January 2, 1969. Applicant: FRIGID FREIGHT, INC., 206 Third Street, Page Park, Fort Myers, Fla. 33902. Applicant's representative: Robert J. Hyde (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit products and beverages* (nonalcoholic), from Bradenton, Fla., to points in New York, New Jersey, and Pennsylvania, for 180 days. Supporting shipper: Tropicana Products Sales, Inc., 1001 13th Avenue, East, Bradenton, Fla. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[P.R. Doc. 69-381; Filed, Jan. 10, 1969; 8:47 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

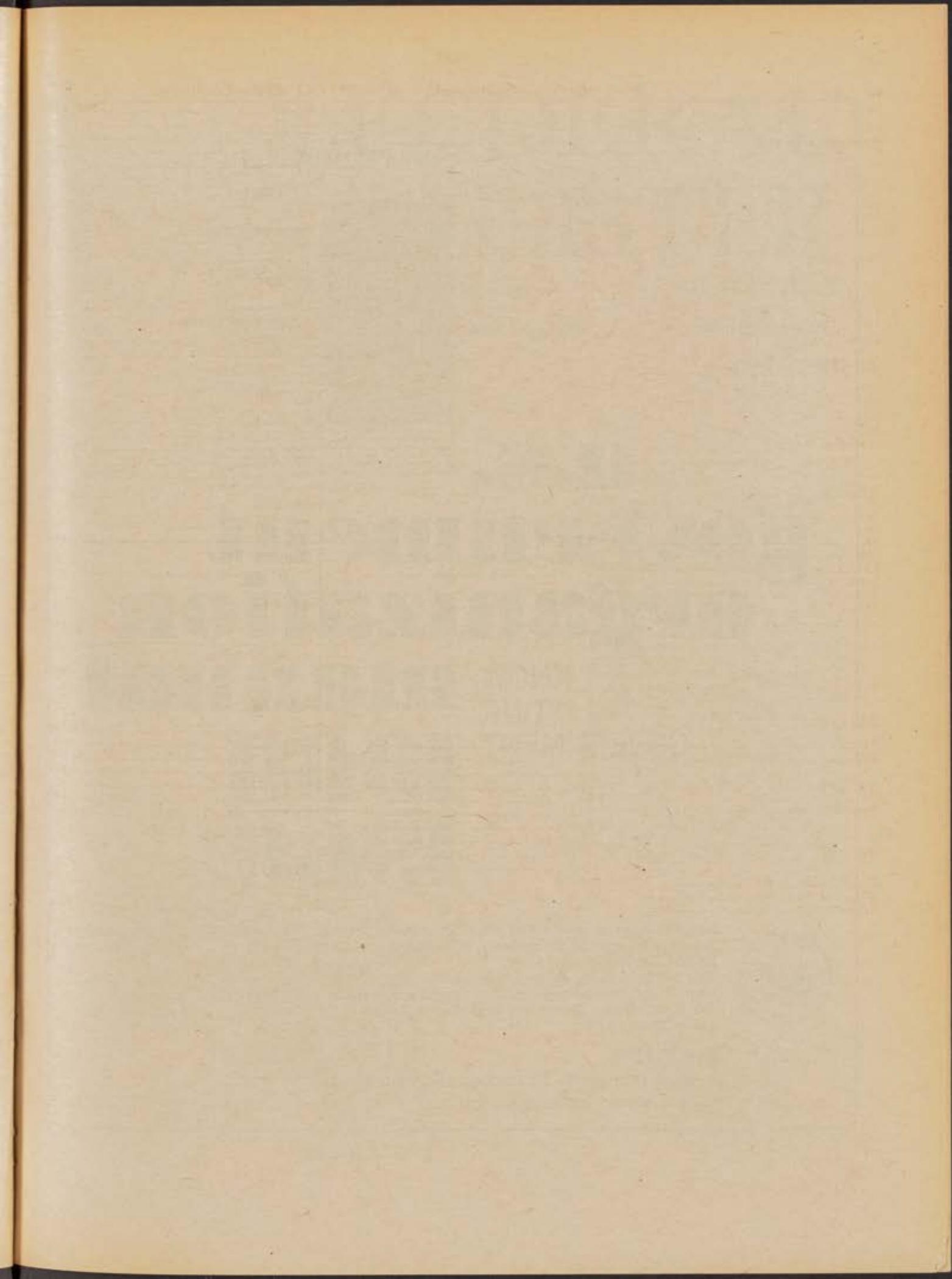
The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during January

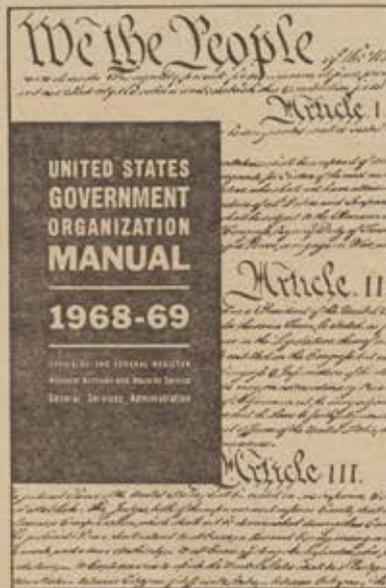
3 CFR	Page	7 CFR—Continued	Page	14 CFR	Page
PROCLAMATIONS:					
3548 (see Proc. 3884)	235	907	57, 127, 318, 428	21	363
3558 (see Proc. 3884)	235	910	6, 127, 246, 428	23	189
3562 (see Proc. 3884)	235	918	380	39	8, 129, 130
3597 (see Proc. 3884)	235	966	128	67	248
3709 (see Proc. 3884)	235	980	128	71	130, 131, 248-250, 429, 430
3790 (see Proc. 3884)	235	1421	6	73	430
3822 (see Proc. 3884)	235	1427	8	75	250, 431
3856 (see Proc. 3884)	235	1434	246	95	365
3870 (see Proc. 3884)	235	PROPOSED RULES:			
3884	235	26	151	97	35, 368
EXECUTIVE ORDER:					
11442	187	724	324	135	189
4 CFR					
201	303	777	397	151	131
5 CFR					
213	239	913	151	208	431
550	123	929	13	295	432
7 CFR					
53	239	945	152	378	432
68	189	1071	78	PROPOSED RULES:	
301	303, 305	1104	78	21	453
401	313, 376, 377	1106	78	23	210
706	313	1130	466	25	465
719	244	8 CFR			
722	5, 55	212	129	36	453
729	56	235	129	39	14, 152, 261
730	124	299	129	71	15, 153-155, 261-264, 400-402
775	5	9 CFR			
814	125	PROPOSED RULES:			
815	56, 425	Ch. III			
817	378	207			
905	245, 246, 379, 428	12 CFR			
8 CFR					
9 CFR					
12 CFR					
14 CFR					
15 CFR					
PROPOSED RULES:					
7					
10					
398					
433					

16 CFR	Page
13.....	319-321
301.....	380
PROPOSED RULES:	
419.....	218
17 CFR	
140.....	321
231.....	382
271.....	383
19 CFR	
1.....	197
10.....	384
14.....	434
18.....	58, 384
25.....	384
20 CFR	
401.....	197
404.....	58, 322, 385-387
405.....	387
422.....	435
PROPOSED RULES:	
404.....	207
21 CFR	
8.....	250, 435
19.....	251
42.....	251
120.....	252
121.....	252, 253
146a.....	253
147.....	254
148q.....	254
PROPOSED RULES:	
1.....	399
3.....	260
121.....	260
128.....	399
191.....	260
24 CFR	
71.....	133
241.....	74
25 CFR	
PROPOSED RULES:	
221.....	14
26 CFR	
1.....	254
201.....	363
514.....	135

26 CFR—Continued	Page
PROPOSED RULES:	
1.....	397
194.....	442
201.....	260, 442
28 CFR	
21.....	436
29 CFR	
20.....	143
694.....	254
728.....	74
729.....	75
778.....	144
860.....	322
32 CFR	
86.....	436
518.....	391
1460.....	436
32A CFR	
OIA (ch. X):	
Reg. 1.....	391
33 CFR	
110.....	392
204.....	393
208.....	75
37 CFR	
PROPOSED RULES:	
1.....	324
39 CFR	
125.....	145
134.....	255
136.....	145
41 CFR	
4-4.....	9, 146
4-10.....	146
4-18.....	146
5A-1.....	436
5A-2.....	438
5A-72.....	438
5A-73.....	438
7-3.....	76
7-4.....	256
7-6.....	256
7-16.....	76, 258
10-12.....	9
12B-7.....	438
12B-16.....	438
14-1.....	198
14-2.....	199
14-7.....	199

41 CFR—Continued	Page
101-26.....	200, 439
101-27.....	200
105-61.....	200
114-1.....	439
114-3.....	440
42 CFR	
73.....	10
PROPOSED RULES:	
81.....	399, 400
43 CFR	
1720.....	393
PUBLIC LAND ORDERS:	
4560.....	76
4561.....	200
4562.....	259
45 CFR	
8.....	201
123.....	201
233.....	10, 393
237.....	11
250.....	205
46 CFR	
171.....	394
173.....	394
PROPOSED RULES:	
540.....	217
47 CFR	
74.....	396
97.....	11
PROPOSED RULES:	
73.....	483
49 CFR	
371.....	113, 115
1000.....	441
1033.....	11, 12, 206
1100.....	441
1131.....	441
1307.....	206
PROPOSED RULES:	
375.....	17
50 CFR	
28.....	323
33.....	77, 206





U.S.
government
organization
manual
1968
1969

KNOW
YOUR
GOVERNMENT



Presents essential information about Government agencies (updated and republished annually). Describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches.

This handbook is an indispensable reference tool for teachers, librarians, researchers, scholars, lawyers, and businessmen who need current official information about the U.S. Government. The United States Government Organization Manual is the official guide to the functions of the Federal Government.

\$2.00 per copy. Paperbound, with charts

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