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Agencies in this issue—

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Up-to-date Revision

PRINCIPAL OFFICIALS IN THE EXECUTIVE BRANCH

Appointed January 20–March 20, 1969

A listing of more than 300 appointments of key officials made after January 20, 1969. Serves as a supplement to the 1968–69 edition of the U.S. Government Organization Manual.

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Title 3—THE PRESIDENT

Proclamation 3905

SMALL BUSINESS WEEK, 1969

By the President of the United States of America

A Proclamation

From its beginnings this Nation has honored the common man and has given him unprecedented freedom. It has drawn its strength, in turn, from the determination of the common citizen to use that freedom in his own unique way—from his capacity to be uncommon.

It was over three centuries ago that small bands of free men laid the foundations of our economic and political system. But the spirit which characterized their efforts is still the essence of the American character. The small businessmen of America best manifest this tradition of individual enterprise.

The American economy has grown affluent beyond the visions of our forefathers. Yet a very important part of it is still represented by the self-owned business: the little shop, the small factory, the family enterprise. They encompass all creeds and races; they exercise their imaginations and pursue their aspirations in a wide variety of enterprises. They provide goods and services of the highest quality; they offer employment opportunities to millions. Their prosperity is fundamental to our economic well-being.

We should recognize, however, that the continued vitality of small business is a matter of political and social concern; a society which encourages free competition cannot easily be subjected to arbitrary control from the top. And a society which opens constructive business opportunities to all of its citizens can liberate and uplift the isolated minorities at the bottom.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning May 11, 1969, as Small Business Week. I encourage chambers of commerce, boards of trade, and other public and private organizations to observe this week by recognizing the contributions which small business enterprises have made to our national development. I urge them to find appropriate means for paying tribute to the accomplishments of small business, and I trust they will encourage small businessmen to achieve new successes in the future.

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

Richard Nixon

[F.R. Doc. 69-3851; Filed, Mar. 27, 1969; 5:01 p.m.]

Proclamation 3906

THE TWENTIETH ANNIVERSARY OF THE NORTH ATLANTIC TREATY ORGANIZATION

By the President of the United States of America

A Proclamation

Twenty years ago, on April 4, 1949, twelve sovereign nations, determined to safeguard the freedom, common heritage, and civilization of their peoples, signed the North Atlantic Treaty. In later years, Greece, Turkey, and the Federal Republic of Germany became parties to that agreement and members of the North Atlantic Treaty Organization, which was established to effect the Treaty's goals.

For twenty years, NATO has furthered the cause of Atlantic unity by achieving a spirit of solidarity on many common military, political, and economic problems. By promoting international security through collective defense arrangements and by fostering cooperation in the political realm, NATO has contributed to unprecedented peace and prosperity for all the peoples of the Treaty area. It has provided a stabilizing influence during times of crisis and has been a vigilant guardian in the face of threats to world peace. At the same time, NATO has steadfastly pursued the quest for improved relations between East and West, dedicated always to a peaceful settlement of European differences and to effective measures for disarmament and arms control.

Now, as NATO begins its third decade, committed still to a viable Atlantic community, to the resolution of differences between East and West, and to the stability and tranquillity of our entire planet, America's commitment to NATO remains firm and vital.

THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby direct the attention of the Nation to this twentieth anniversary of the signing of the North Atlantic Treaty; and I call upon all agencies and officials of the Federal Government, upon the Governors of the States, and upon the officers of local governments to encourage and facilitate the suitable observance of this notable event throughout this anniversary year with particular attention to April, the month which marks the historic signing ceremony.

I also urge all citizens to participate in appropriate activities and ceremonies in recognition of the achievements of the North Atlantic Treaty Organization and its contributions to America's security and well-being.

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

Richard Nixon

[F.R. Doc. 69-3882; Filed, Mar. 28, 1969; 1:49 p.m.]

Proclamation 3907

ANNOUNCING THE DEATH OF DWIGHT DAVID EISENHOWER

By the President of the United States of America

A Proclamation

TO THE PEOPLE OF THE UNITED STATES:

I have the sad duty to announce officially the death of Dwight David Eisenhower, the thirty-fourth President of the United States, on March 28, 1969.

In London, in 1945, this great soldier received the Freedom of the City of London. At that time, he said: "* * * we should turn to those inner things, call them what you will—I mean those intangibles that are the real treasures free men possess."

As a soldier, he was guided by those inner things. As a President, he was strengthened by their wisdom and by the knowledge that the ancient virtues, intangible but unconquerable, could offer comfort and solace even during the darkest hours.

And so it should be with us who today mourn his death. The memory of his greatness is now one of those "real treasures free men possess"; it belongs now to all Americans, and in its simplicity, its devotion, its courage, and its compassion, his life will shape the future as it shaped our time.

As long as free men cherish their freedom, Dwight Eisenhower will stand with them, as he stood during war and peace; strong, confident, and courageous. Even in death he has left us a great spirit that will never die.

NOW, THEREFORE, I, RICHARD M. NIXON, President of the United States of America, in honor and tribute to the memory of this great and good man, and as an expression of public sorrow, do hereby direct that the flag of the United States be displayed at half-staff at the White House and on all buildings, grounds, and Naval vessels of the United States for a period of thirty days from the day of death. I also direct that for the same length of time the representatives of the United States in foreign countries shall make similar arrangements for the display of the flag at half-staff over their Embassies, Legations, and other facilities abroad, including all military facilities and stations.

I hereby order that suitable honors be rendered by units of the Armed Forces under orders of the Secretary of Defense on the day of the funeral.

I also do appoint Monday, March 31, 1969 to be a National Day of Mourning throughout the United States. I earnestly recommend that the people assemble on that day in their respective places of divine worship, there to bow down in submission to the will of the Almighty God, and to pay their homage of love and reverence to the memory of President Eisenhower. I invite the people of the world who share our grief to join us in this day of mourning and rededication.

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

Richard Nixon

[F.R. Doc. 69-3891; Filed, Mar. 28, 1969; 3:28 p.m.]

Executive Order 11461

INSPECTION OF INCOME, ESTATE, AND GIFT TAX RETURNS BY THE COMMITTEE ON PUBLIC WORKS, HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by section 6103(a) of the Internal Revenue Code of 1954, as amended (68A Stat. 753; 26 U.S.C. 6103(a)), it is hereby ordered that any income, estate, or gift tax return for the years 1956 to 1970, inclusive, shall, during the Ninety-first Congress, be open to inspection by the Committee on Public Works, House of Representatives, or any duly authorized subcommittee thereof, in connection with its investigation of the policies, procedures, and practices involved in the administration of the Federal-Aid Highway Program, pursuant to House Resolution 189, 91st Congress, agreed to February 19, 1969. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decision 6132, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

Richard Nixon

THE WHITE HOUSE,
March 27, 1969.

[F.R. Doc. 69-3850; Filed, Mar. 27, 1969; 5:01 p.m.]

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Livestock From Mexico

Pursuant to the provisions of the Act of August 30, 1890, as amended, and section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 102–105, 111), paragraph (c) of § 92.3, Title 9, Code of Federal Regulations, is hereby amended to read as follows:

§ 92.3 Ports designated for the importation of animals.

* * * * *

(c) *Mexican border ports.* The following ports in addition to those specified in paragraph (a) of this section are designated as quarantine stations for the entry of animals from Mexico: Brownsville, Hidalgo, Rio Grande City, Roma, Laredo, Eagle Pass, Del Rio, Presidio, and El Paso, Tex.; Douglas, Naco, Nogales, and San Luis, Arizona; and Calexico and San Ysidro, Calif.

* * * * *

(Secs. 6, 7, 8, 10, 26 Stat. 416, 417, as amended; sec. 2, 32 Stat. 792, as amended, 21 U.S.C. 102–105, 111; and 29 F.R. 16210, as amended, 33 F.R. 15485)

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

The amendment adds San Luis, Ariz., to the list of ports designated as quarantine stations for the entry of animals into the United States from Mexico.

The amendment relieves certain restrictions presently imposed and will facilitate the handling of animals to be imported into the United States from Mexico. The amendment should be made effective as soon as possible to be of maximum benefit to persons subject to the restrictions which are relieved. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest and it may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 25th day of March 1969.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 69-3739; Filed, Mar. 28, 1969; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER D—WHALING

PART 230—WHALING PROVISIONS

Change in Dates of Season for Taking Baleen Whales

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 12 of the Whaling Convention Act of 1949 (16 U.S.C. 916j), which authority was delegated to the Director of the Bureau of Commercial Fisheries on June 17, 1965 (30 F.R. 8114), the dates of the season for taking baleen whales are changed. These dates, prescribed in 50 CFR 230.20(a), are changed from April 16 to May 1 for the opening date, and from October 15 to October 31 for the closing date.

The change in dates is made at the request of the one remaining U.S. commercial whaling company and is made pursuant to the above cited authority. The change does not affect any other entities and no objections are anticipated. For good cause found, the following change will be effective upon the date of publication.

The introductory text of paragraph (a) of § 230.20 of Title 50 CFR is amended as follows:

§ 230.20 Whale catchers attached to land stations taking baleen whales.

(a) It is forbidden to use a whale catcher attached to a land station for the purpose of taking or killing any baleen whales, except during the period May 1 to October 31 following, both days inclusive: *Provided*, That it is forbidden to kill or attempt to kill blue whales, by any means, in the following areas:

* * * * *

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685), and dated March 26, 1969.

H. E. CROWTHER,
Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 69-3741; Filed, Mar. 28, 1969; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Proclamation, Determinations and Announcements of National Marketing Quotas and Referendum Results

MARKETING QUOTA REFERENDUM RESULTS

Sec.

724.26 Cigar binder (types 51 and 52) tobacco—1969–70, 1970–71, and 1971–72 marketing years.

724.27 Cigar filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco—1969–70, 1970–71, and 1971–72 marketing years.

AUTHORITY: §§ 724.26 and 724.27 issued under secs. 312, 375, 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1312, 1375.

Basis and purpose. Sections 724.26 and 724.27 are issued pursuant to and in accordance with section 312 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the results of the cigar binder (types 51 and 52) and cigar filler and binder (types 42–44, 53–55) tobacco marketing quota referenda for the three marketing years beginning October 1, 1969, October 1, 1970, and October 1, 1971. Under the provisions of the same section of the act, the Secretary proclaimed national marketing quotas for these kinds of tobacco for the 1969–70, 1970–71, and 1971–72 marketing years, and announced the amounts of the national marketing quotas for such kinds of tobacco for the 1969–70 marketing year (34 F.R. 1629). The Secretary announced (34 F.R. 1699) that referenda would be conducted by mail ballots during the period February 24 to 27, 1969, each inclusive, to determine whether cigar binder (types 51 and 52) and cigar filler and binder (types 42–44, 53–55) tobacco producers were in favor of or opposed to marketing quotas for the three marketing years beginning October 1, 1969, October 1, 1970, and October 1, 1971. Since the only purpose of this document is to proclaim the results of

the referenda, it is hereby found and determined that with respect to this proclamation, application of the notice and procedure provisions of 5 U.S.C. 553 is unnecessary.

§ 724.26 Cigar binder (types 51 and 52) tobacco—1969–70, 1970–71, and 1971–72 marketing years.

In a referendum of farmers engaged in the production of the 1968 crop of cigar binder (types 51 and 52) tobacco held during the period February 24 to 27, 1969, each inclusive, 462 farmers voted. Of those voting, 425 or 92.0 percent, favored quotas for a period of 3 years beginning October 1, 1969; 37 or 8 percent were opposed to quotas. Therefore, the national marketing quota of 11.7 million pounds for this kind of tobacco proclaimed January 30, 1969 (34 F.R. 1629) for the 1969–70 marketing year will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the 3 marketing years beginning October 1, 1969, October 1, 1970, and October 1, 1971.

§ 724.27 Cigar filler and binder (types 42–44, 53–55) tobacco—1969–70, 1970–71, and 1971–72 marketing years.

In a referendum of farmers engaged in the production of the 1968 crop of cigar filler and binder (types 42–44, 53–55) tobacco held during the period February 24 to 27, 1969, each inclusive, 4,381 farmers voted. Of those voting, 4,072 or 84.6 percent, favored quotas for a period of 3 years beginning October 1, 1969; 741 or 15.4 percent were opposed to quotas. Therefore, the national marketing quota of 34.2 million pounds proclaimed January 30, 1969 (34 F.R. 1629) for this kind of tobacco for the 1969–70 marketing year will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the 3 marketing years beginning October 1, 1969, October 1, 1970, and October 1, 1971.

Signed at Washington, D.C., on March 25, 1969.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69-3768; Filed, Mar. 28, 1969; 8:49 a.m.]

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

SUBCHAPTER H—DETERMINATION OF WAGE RATES

PART 862—WAGE RATES; SUGAR BEETS

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearings held during December 1968, the following determination is hereby issued:

Sec.
862.9 General requirements.
862.10 Wage rates.
862.11 Compensable working time.
862.12 Applicability of wage requirements.
862.13 Payment of wages.
862.14 Evidence of compliance.
862.15 Employment of workers through a labor contractor or crew leader.
862.16 Subterfuge.
862.17 Claim for unpaid wages.
862.18 Failure to pay all wages in full.
862.19 Child labor.
862.20 Checking compliance.

AUTHORITY: §§ 862.9 to 862.20 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 862.9 General requirements.

A producer of sugarbeets shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in the production, cultivation, or harvesting of sugarbeets, as provided in § 862.12, shall have been paid in accordance with the following:

§ 862.10 Wage rates.

All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, but not less than the following, which shall become effective on April 7, 1969, and shall remain in effect until amended, superseded, or terminated:

(a) When employed on a time basis: For the hand labor operations of Thinning, Hoeing, Hoe-Trimming, Blocking and Thinning, Weeding, Pulling, Topping, Loading, or Gleaning: $1.65 per hour: *Provided*, That for workers 14 or 15 years of age the hourly rate specified herein may be reduced by not more than 15 percent.

(b) When employed on a piecework basis for the hand labor operations in the following table:

Hand labor operations	*Rate per acre*
A. Thinning: Removing excess beets with a hoe only	$12.00
B. Hoeing: Removing weeds and excess beets with a hoe only	15.50
C. Hoe-Trimming: Removing weeds with a hoe and by hand and removing excess beets with a hoe only	18.75
D. Weeding: Removing weeds with a hoe and by hand following either A, B, or C above, E below, or following the operation specified in paragraph (c) of this section	10.00
Hand labor operations	*Rate per acre*
and in the State of California only: E. Blocking and Thinning: Removing weeds and excess beets with a hoe and by hand	26.50

Wide row planting: The above rates may be reduced by not more than the indicated percentages for the following row spacing: 28 inches or more, but less than 31 inches, 20 percent; 31 inches or more but less than 34 inches, 25 percent; 34 inches or more, 30 percent.

(c) In the fields that have been completely machine-thinned and on which chemical herbicides have been applied, removing weeds with a hoe only may be employed as a first operation: *Provided*, That the applicable piecework rate therefor shall be not less than $10 per acre.

(d) When employed on a piecework basis for hand labor operations not specified or defined, or for harvesting: The piecework rate for blocking and thinning in States other than California, weeding not qualified as a first operation under paragraph (c) of this section or not preceded by A, B, C, or E in the table of paragraph (b) of this section, and any other hand labor operation involving the removal of beets or weeds which is not defined above, and for the operations of pulling, topping, loading, or gleaning, shall be as agreed upon between the producer and the worker: *Provided*, That the average hourly rate of earnings of each worker for each operation shall be not less than $1.65 per hour computed on the basis of the total time such worker is employed on the farm for such operation.

(e) When employed on a time or piecework basis for other operations: For all other operations in the production, cultivation, or harvesting of sugarbeets for which no minimum rate is provided for herein, the rate shall be as agreed upon between the producer and the worker.

§ 862.11 Compensable working time.

For work performed under § 862.10, compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the work day. Compensable working time commences at the time the worker is required to start work in the field and ends upon completion of work in the field. However, if the producer requires the operator of mechanical equipment, or any other class of worker to report to a place other than the field, such as an assembly point, tractor shed, etc., located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Any time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central labor recruiting point or labor camp to the farm is not compensable working time.

§ 862.12 Applicability of wage requirements.

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugar beets on any acreage from which sugar beets are marketed or processed for the production of sugar, or any acreage which qualifies as bona fide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by a custom operator who performs the above services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truck drivers employed by a contractor engaged by the producer only in hauling sugar beets; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop or crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugar beets, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

§ 862.13 Payment of wages.

Workers shall be paid in cash for all work performed. Deductions from cash payments are permitted and may be made for cash advances to workers and, in the amounts agreed upon, for items furnished such as meals and transportation and for mandatory deductions or withholdings required by law. Deductions may not be made for payments to a labor contractor or supervisor for their services, or for any items which the producer agreed to furnish the worker free of charge.

§ 862.14 Evidence of compliance.

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed upon rates per unit of work, total earnings, and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.

§ 862.15 Employment of workers through a labor contractor or crew leader.

If a producer employs workers through a labor contractor or crew leader and makes payment of workers' wages to him, the producer shall obtain from such contractor or crew leader (a) a copy of his authorization signed by each worker to collect wages due each such worker; (b) a wage record sheet showing the amounts earned and due each worker; and (c) a written representation that he will pay to each worker the wage rates agreed upon by the contractor and the producer but in no event less than those provided by this part. Where State or Federal law requires the labor contractor to furnish the worker with a statement of earnings, the producer shall obtain a written agreement from the contractor to furnish the producer with a copy of such statements.

§ 862.16 Subterfuge.

The producer shall not reduce the wage rates to workers below those determined herein, through any subterfuge or device whatsoever.

§ 862.17 Claim for unpaid wages.

Any person who believes he has not been paid in accordance with this part may file a wage claim with the Agricultural Stabilization and Conservation Service County Office against the producer on whose farm the work was performed. Detailed instructions and wage claim forms are available at the county ASCS office. Such claim must be filed within 2 years from the date the work with respect to which the claim is made was performed. Upon receipt of a wage claim the county ASCS office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendations for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Service ffice. The address of the State ASCS Office will be furnished by the local county ASCS office. Upon receipt of the appeal the State ASC committee shall likewise consider the facts and notify the producer and worker in writing of its recommendations for settlement of the claim. If the recommendation of the State ASC committee is not acceptable, either party may file an appeal with the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All such appeals shall be filed within 15 days after receipt of the recommended settlement of the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, State and County Operations, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title.

§ 862.18 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugar beets be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representatives of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer, or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this section, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be withheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them, or if unpaid workers cannot be located and the county committee determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment has been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control

record for the total payment until the county committee determines that all workers on the farm have been paid in full, the producer refunds the entire amount of the debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

§ 862.19 Child labor.

Notwithstanding any of the foregoing provisions of this part, the act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day (except a member of the immediate family of a person who was the legal owner of not less than 40 percent of the crop at the time work was performed), will result in a deduction from Sugar Act payments to the producer.

§ 862.20 Checking compliance.

The procedures to be followed by ASCS county offices in checking compliance with the wage requirements of this part are set forth under the applicable sections of Handbook 1–SU issued by the Deputy Administrator, State and County Operations, ASCS. Copies of Handbook 1–SU may be inspected at local county ASCS offices and copies may be obtained from State Agricultural Stabilization and Conservation Service offices. The address of the State ASCS office will be furnished by the local county ASCS office.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of sugar beets as one of the conditions with which producers must comply to be eligible for payments under the act.

Requirements of the act and standards employed. Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugar beets with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determination the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugar beets and cost of production), and the differences in conditions among the various sugar producing areas.

Wage determination. This determination differs from the prior determination in the following respects: (1) The minimum hourly wage rate for specified hand labor operations is increased 15 cents per hour to $1.65; (2) minimum piecework rates for the operations of Hoeing and Weeding are increased $1 per acre, for Hoe-Trimming $1.25 per acre, and for Blocking and Thinning (applicable in the State of California only) $2 per acre; (3) the hand labor operation of Trimming is eliminated; and (4) a new operation specified as Thinning, at a piecework rate of $12 per acre, is introduced. In addition, a provision is included which permits the use of weeding, with a hoe only, as a primary hand labor operation at a piecework rate of $10 per acre. When used as a primary hand labor operation (i.e., when not preceded by another specified hand labor operation), weeding with a hoe only is restricted to fields that have been machine-thinned and treated with chemical herbicides for weed population control.

Public hearings were held in Portland, Oreg.; Presque Isle, Maine; Detroit, Mich.; St. Paul, Minn.; San Francisco, Calif.; and San Antonio, Tex., during the period December 5 through December 19, 1968. These hearings afforded interested persons the opportunity to present testimony and make recommendations relating to fair and reasonable wage rates for sugar beet workers.

Producer representatives generally recommended that there be no increase in minimum hourly or piecework rates. A producer in one region recommended an additional piecework operation—"Weeding following electronic thinning with hoe only". Producers in several regions recommended establishment of a new weeding operation for use in fields that require only one hand labor operation due to improved cultural practices performed by the producer, while others recommended designation of the present operation of Weeding as a primary hand labor operation rather than as an operation following prior hand work. One producer recommended that piecework operations be rescheduled as (a) Thinning, (b) Thinning and weeding, and (c) Weeding; and that producers be permitted to agree on any piecework rate so long as the hourly minimum wage rate is guaranteed. Producers in one region recommended a graduated scale of wage rates for the thinning operation, based upon an average count of plants to be removed per 100 feet of row as agreed upon between the producer and worker; and flexible rates for the weeding operation to be agreed upon at the same time as the thinning rate. One producer recommended reductions in piecework rates for hand labor following standard mechanical thinning or electronic thinning. A representative of California producers recommended that the Department make a study in California of worker productivity in the hand labor operations of Hoe-Trimming and Blocking and Thinning.

Workers in one region recommended increases ranging from 15 to 50 cents in the minimum hourly wage rate, while workers in another region indicated that wage rates were satisfactory but that any increase would be helpful. Several workers recommended that producers be required to make certain that labor contractors pay established wages to each worker. One family worker recommended that piecework rates be eliminated from the determination.

Representatives of workers recommended that the minimum hourly wage be increased to amounts ranging from $2 to $2.25. A number of worker representatives recommended that workers employed on the piecework basis be guaranteed a minimum hourly wage. Several representatives recommended that producers be required to pay workers directly rather than through labor contractors, and one worker representative recommended that the grower assure the Secretary that he will pay, and actually did pay, each worker in the crew at least the minimum wage.

Consideration has been given to the recommendations made at the public hearings, to the returns, costs, and profits of producing sugarbeets in recent years and under conditions likely to prevail for the 1969 crop, and to other pertinent factors. Analysis of these data indicate that the increases in the minimum rates established in this determination are fair and reasonable and are within the producers' ability to pay.

In recent years there have been significant technological improvements in mechanical stand reduction devices. Chemical herbicides are being used extensively in most areas, and labor requirements in fields which are relatively free of weeds and which do not require the removal of beets are significantly different from those in fields with a heavy population of weeds and beets. The development and wide-spread adoption of improved cultural practices indicate the need for changes in the wage structure to make it more responsive to present and prospective practices.

This determination includes a provision which permits the employment of weeding with a hoe only as a first hand labor operation in fields that have been completely machine-thinned and on which chemical herbicides have been applied. The provision specifically excludes the removal of weeds by hand. The rate for weeding as a primary hand labor operation is the same as that for the removal of weeds with a hoe and by hand following one of the other specified hand labor operations.

The operation of Trimming provided in the 1968 determination has not been continued in this determination and is replaced by the operation of Thinning. The definition of this operation includes the removal of excess beets with a hoe only, but excludes the removal of weeds.

Other recommendations for changes in the basic hand labor operations and related work tasks have not been adopted. The Department believes that the structure of piecework rates established in this determination will encourage innovation and hasten the development and adoption of technology to reduce the

need for unskilled hand labor, and at the same time will increase the remaining workers' seasonal earnings and make their tasks easier to perform.

A recommendation by representatives of workers that a minimum hourly wage be guaranteed to all workers employed on the piecework basis has not been adopted. Both workers and producers generally agree, and evidence available to the Department indicates that higher hourly wages than the minimum hourly determination rate are earned at established piecework rates by the average competent worker. Furthermore, there is mutual agreement that the incentive feature of piecework rates is desirable and should be retained.

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

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1943.

Effective date: April 7, 1969.

Signed at Washington, D.C., on March 25, 1969.

CLARENCE D. PALMBY,
Assistant Secretary.

[F.R. Doc. 69-3769; Filed, Mar. 28, 1969; 8:49 a.m.]

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

[Grapefruit Reg. 35, Amdt. 2]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE RIVER, CALIF.

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, Calif.; and in that part of Riverside County, Calif., situated south and east of White Water, Calif., 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 Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, 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 a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on March 19, 1969, to consider recommendation for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an unassembled meeting; necessary supplemental economic and statistical information upon which this recommended amendment is based were received on March 24, 1969; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, this amendment, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective on the date hereinafter set forth; compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed on or before the effective date hereof, and this amendment relieves restrictions on the handling of grapefruit.

Order. In § 909.335 (Grapefruit Regulation 35, 33 F.R. 15295) the provisions of paragraph (a)(1) preceding (a)(1)(ii) are amended to read as follows:

§ 909.335 Grapefruit Regulation 35.

(a) *Order.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, during the period March 30, 1969, through August 30, 1969, no handler shall handle from the State of California or the State of Arizona to any point outside thereof:

(i) Any grapefruit which do not meet the requirements of the U.S. No. 2 grade which for purpose of this section shall include the requirement that the grapefruit be free from peel that is more than 1 inch in thickness at the stem end (measured from the flesh to the highest point on the peel): *Provided*, That in lieu of the 10 percent tolerance provided for the U.S. No. 2 grade, not more than a total tolerance of 20 percent, by count, shall be allowed for fruit which fail to meet the requirements of such grade but included in such tolerance (*a*) not more than 15 percent, by count, shall be allowed for serious damage caused by dryness; (*b*) not more than 10 percent, by count, shall be allowed for defects other than serious damage caused by dryness; and (*c*) not more than 5 percent, by count, shall be allowed for grapefruit having peel more than 1 inch in thickness at the stem end, measured from the flesh to the highest point of the peel; or

* * * * *

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

Dated, March 27, 1969, to become effective March 30, 1969.

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

[F.R. Doc. 69-3845; Filed, Mar. 28, 1969; 8:50 a.m.]

[Lemon Reg. 367]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.667 Lemon Regulation 367.

(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 infor-

mation 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 March 25, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period March 30, 1969, through April 5, 1969, are hereby fixed as follows:

(i) District 1: 13,950 cartons;

(ii) District 2: 190,650 cartons;

(iii) District 3: Unlimited movement.

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

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

Dated: March 27, 1969.

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

[F.R. Doc. 69-3808; Filed, Mar. 28, 1969; 8:50 a.m.]

[Grapefruit Reg. 58]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.358 Grapefruit Regulation 58.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District 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 and information submitted by the Indian River Grapefruit 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 grapefruit, 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 Indian River grapefruit, 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 Indian River grapefruit; 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 March 27, 1969.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period March 31, 1969 through April 6, 1969, is hereby fixed at 225,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: March 28, 1969.

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

[F.R. Doc. 69-3877; Filed, Mar. 28, 1969; 11:26 a.m.]

[Grapefruit Reg. 27]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

§ 913.327 Grapefruit Regulation 27.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 913 (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District 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 and information submitted by the Interior Grapefruit Marketing Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, 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 Interior grapefruit, 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 Interior grapefruit; 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 March 27, 1969.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period March 31, 1969, through April 6, 1969, is hereby fixed at 200,000 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

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

Dated: March 28, 1969.

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

[F.R. Doc. 69-3878; Filed, Mar. 28, 1969; 11:26 a.m.]

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

[Milk Order No. 61]

PART 1061—MILK IN THE SOUTHEASTERN MINNESOTA-NORTHERN IOWA (DAIRYLAND) MARKETING AREA

Order Regulating Handling

FINDINGS AND DETERMINATIONS

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

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

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

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

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1061.46 (a) (4) and (8) and the corresponding steps of § 1061.46 (b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

(b) *Additional findings.* It is necessary in the public interest to make this order partially effective not later than April 1, 1969, and fully effective not later than May 1, 1969. Any delay beyond these dates would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator was issued December 3, 1968, and the decision of the Under Secretary containing all the provisions of this order was issued February 27, 1969. The provisions other than those relating to prices and payments must become effective prior to the fully effective date of the order to provide handlers the opportunity to adjust their operational and accounting procedures to the order provisions. In view of the foregoing, it is hereby found and determined that good cause exists for making this order partially effective April 1, 1969, and fully effective May 1, 1969, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

(2) The issuance of this order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southeastern Minnesota-Northern Iowa (Dairyland) marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS AND FACILITIES

CLASSIFICATION OF MILK

MINIMUM PRICES

APPLICATION OF PROVISIONS

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

PAYMENTS FOR MILK

MISCELLANEOUS

EFFECTIVE TIME, SUSPENSION OR TERMINATION

AUTHORITY: The provisions of this Part 1061 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1061.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 1061.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1061.3 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions of the U.S. Department of Agriculture.

§ 1061.4 Person.

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

§ 1061.5 Cooperative association.

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

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

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

§ 1061.6 Southeastern Minnesota-Northern Iowa (Dairyland) marketing area.

"Southeastern Minnesota-Northern Iowa (Dairyland) marketing area", hereinafter called the "marketing area" means all the territory within the boundaries of the counties listed below, including all territory within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA COUNTIES

Blue Earth.	Mower.
Brown.	Nicollet.
Cottonwood.	Olmsted.
Dodge.	Redwood.
Faribault.	Rice.
Fillmore.	Steele.
Freeborn.	Wabasha.
Goodhue.	Waseca.
Le Sueur.	Watonwan.
Martin.	Winona.

IOWA COUNTIES

Howard.	Winnebago.
Kossuth.	Winneshiek.
Mitchell (except city of Osage).	Worth.

§ 1061.7 Fluid milk product.

"Fluid milk product" means milk, cream, skim milk, buttermilk, unsterilized concentrated milk or skim milk, eggnog and eggnog flavored milk, and mixtures combining milk, skim milk, and/or cream, including the aforesaid products sweet, sour, cultured, or acidified and such products reconstituted from or fortified with milk products. The term includes the aforesaid products to which flavors, sweeteners, stabilizers, emulsifiers, vitamins, minerals, and similar ingredients have been added. The term does not include products which are sterilized and disposed of in hermetically sealed metal or glass containers.

§ 1061.8 Route disposition.

"Route disposition" means a delivery from a plant (including delivery from a retail store at such plant and delivery through vendors or distribution points) of any fluid milk product classified as Class I under § 1061.41(a) to a retail or wholesale outlet other than a milk plant. A delivery through a vendor or through a distribution point shall be considered a route disposition of the plant at the location of the wholesale or retail outlet to which delivery is made.

§ 1061.9 Distributing plant.

"Distributing plant" means a plant from which a Grade A fluid milk product that is packaged in such plant is disposed of during the month in the marketing area on routes, either directly or through another plant.

§ 1061.10 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to another plant.

§ 1061.11 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section, except an exempt distributing plant, the plant of a handler exempted pursuant to § 1061.60 or the plant of a producer-handler: *Provided*, That if a portion of a plant is operated separately from the Grade A portion of such plant and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section: *And provided further*, That facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be part of a pool plant pursuant to this section.

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in subparagraphs (1) and (2) of this paragraph of the total Grade A fluid milk products received during the month at such plant, including producer milk diverted under § 1061.17(b), but excluding receipts of packaged fluid milk products from other pool distributing plants and receipts from unregulated supply plants and other order plants which are assigned pursuant to § 1061.46(a)(5)(i)(a) and (ii) and the corresponding step of § 1061.46(b):

(1) Not less than 10 percent of such receipts is disposed of from such plant as Class I milk in the marketing area either on routes or moved as packaged fluid milk products to other plants from which it is disposed of in the marketing area on routes. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants; and

(2) Not less than 15 percent during the months February–August and 20 percent during the months September–January of such receipts is disposed of as Class I milk either on routes or moved in the form of packaged fluid milk products to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which not less than 15 percent of its total Grade A milk receipts from dairy farmers during the month is delivered as fluid milk products to pool plants pursuant to paragraph (a) of this section subject to subparagraphs (1), (2) and (3) of this paragraph:

(1) Any plant which qualified pursuant to this paragraph in each of the immediately preceding months of September through November shall be a pool plant for the months of December through August unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant;

(2) In determining the pool plant qualifications of a cooperative association's plant, member producer milk of such association which is delivered directly to plants described in paragraph (a) of this section may be considered for purposes of this paragraph as having been first received at the cooperative's plant; and

(3) During the period from the effective date of this part through August 1969, the monthly percentage shall be not less than 10 percent, except that a plant which would have qualified on the basis of 10 percent shipments to a plant which would have qualified under paragraph (a) of this section during the month of November 1968 shall be a pool plant unless nonpool status is requested in accordance with subparagraph (1) of this paragraph.

§ 1061.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and

pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

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

(e) "Exempt governmental plant" means a distributing or supply plant operated by a governmental agency.

§ 1061.13 Handler.

"Handler" means:

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

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler to a nonpool plant;

(c) Any cooperative association with respect to milk of its producers 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;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either distributed on routes in the marketing area or shipped to a pool plant; or

(f) A producer-handler.

§ 1061.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant from which Class I milk of his own production is distributed on routes in the marketing area, and who receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts by plant transfer from pool plants and who receives no nonfluid milk products from any source for use in reconstituted fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk and milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are wholly the personal enterprise and risk of such person.

§ 1061.15 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received as producer milk at a pool plant, or diverted pursuant to § 1061.17 from a pool plant to a nonpool plant.

§ 1061.16 Producer milk.

"Producer milk" means the skim milk and butterfat in Grade A milk:

(a) Received at a pool plant directly from a dairy farmer, except that milk received by diversion from other order plants which is assigned pursuant to § 1061.46(a)(5)(ii) and the corresponding step of § 1061.46(b);

(b) Received at a pool plant from a cooperative association handler pursuant to § 1061.13(c);

(c) Received by a cooperative association handler pursuant to § 1061.13(c) from producers in excess of the quantity delivered to pool plants; and

(d) Subject to the provisions of § 1061.17, diverted from a pool plant to a nonpool plant that is not an other order plant, or to a nonpool plant that is an other order plant if diverted as Class II milk and such milk is not producer milk under such other order.

§ 1061.17 Diverted milk.

"Diverted milk" means, for any month, milk produced by a dairy farmer which a pool plant handler or a handler pursuant to §1061.13(b) caused to be moved from the farm to a nonpool plant (subject to the conditions set forth in § 1061.16(d)) if such milk is claimed as producer milk and the conditions of paragraphs (a) or (b), and (c) of this section have been met.

(a) During the months of February through August a cooperative association handler pursuant to § 1061.13(b) may divert for its account, without limit on the remaining days, the milk of any member who was a producer during the previous month or whose milk is delivered to a pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any member producer whose milk is delivered to a pool plant described in § 1061.11(a) on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk delivered during that month by all its member producers to pool plants described in § 1061.11(a).

(b) During February through August a handler in his capacity as the operator of a pool plant may divert for his account without limit on the remaining days the milk of any dairy farmer who was a producer during the previous month or whose milk is received at his pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any producer whose milk is received at his pool plant on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk received during the month at his pool plant from all producers except the member producers of a cooperative which diverted milk during the month pursuant to paragraph (a) of this section.

(c) If milk receipts from dairy farmers are diverted in excess of the quantities allowed pursuant to paragraphs (a) and (b) of this section the diverting handler shall specify the dairy farmers whose milk was overdiverted. If the diverting handler does not specify the dairy farmers whose milk was overdiverted, only the milk of dairy farmers which is received at a pool plant during the month shall be producer milk for such month.

§ 1061.18 Other source milk.

"Other source milk" means all skim milk and butterfat in:

(a) Fluid milk products from any source other than:

(1) Producer milk;

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

(3) Fluid milk products in inventory on hand at the beginning of the month; and

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

MARKET ADMINISTRATOR

§ 1061.20 Designation.

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

§ 1061.21 Powers.

The market administrator shall:

(a) Administer the terms and provisions of this part;

(b) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this part;

(c) Recommend to the Secretary amendments to this part; and

(d) Make rules and regulations to effectuate the terms and provisions of this part.

§ 1061.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 1061.90, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by § 1061.91;

(c) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

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

(e) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1061.30 and 1061.31 or has not made payments pursuant to §§ 1061.80, 1061.83, and 1061.85;

(f) Verify each handler's reports and payments by inspection of such handler's records and the records of any person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(g) Prepare and disseminate to the public such statistics and information concerning the operations under this order as he deems advisable and as do not reveal confidential information;

(h) On or before the fifth day of each month, mail to all handlers and make public announcement of the Class I price computed pursuant to § 1061.51(a), and the butterfat differential computed pursuant to § 1061.52(a) for the current month, and the Class II price computed pursuant to § 1061.51(b) and the butterfat differential computed pursuant to § 1061.52(b) for the preceding month;

(i) On or before the 12th day after the end of each month, announce the uniform price computed pursuant to § 1061.71 and notify each handler of his oblig tions to the producer-settlement fund;

(j) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1061.46(a)(9) and the corresponding step of § 1061.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest 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;

(k) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1061.46 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(l) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler and as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1061.30 Monthly reports of receipts and utilization.

On or before the eighth day after the end of each month each handler who operates a pool plant shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his pool plants as follows:

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

(1) Milk received from producers including milk received from farms and diverted pursuant to § 1061.17 for such handler's account;

(2) Producer milk received from handlers pursuant to § 1061.13(c);

(3) Fluid milk products received from other pool plants;

(4) Other source milk; and

(5) Inventories of fluid milk products at the beginning and end of the month, showing separately the quantities in bulk and in packages;

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

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

§ 1061.31 Other reports.

(a) Each producer-handler and each handler who operates an other order plant shall report the receipts and disposition of skim milk and butterfat at such plant at such time and in such manner as the market administrator may require.

(b) Each handler pursuant to § 1061.13 (b) and (c) shall report to the market administrator on or before the eighth day after the end of the month in detail and on forms prescribed by the market administrator, the total quantity of skim milk and butterfat in milk received by such handler from all producer member farms for which it is the handler pursuant to § 1061.13 (b) and (c); and

(1) For milk for which it is the handler pursuant to § 1061.13(b), report the quantities of skim milk and butterfat in milk diverted for its account during the month from each pool plant and the utilization of such skim milk and butterfat; and

(2) For milk for which it is the handler pursuant to § 1061.13 (c), report the quantities of skim milk and butterfat in milk delivered to each pool plant during the month.

(c) Each handler operating a partially regulated distributing plant shall report for each such plant the information required of pool plant operators pursuant to § 1061.30 substituting receipts from dairy farmers for producer milk.

(d) Each handler receiving milk from producers' farms shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 25th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days on which milk was received from such producer;

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

(4) The net amount of such handler's payment together with the price paid and the amount and nature of any deductions.

§ 1061.32 Records and facilities.

Each handler shall maintain and make available to the market administrator, or his representative, during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary to enable 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 during the month;

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

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

(d) Payments to dairy farmers and cooperative associations, including the nature of any deductions and the disbursement of money so deducted; and

(e) Whether or not a person claiming producer-handler status meets the criteria set forth in § 1061.14.

§ 1061.33 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 8(c)(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case the market administrator shall give further

written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1061.40 Skim milk and butterfat to be classified.

(a) The skim milk and butterfat which are required to be reported pursuant to §§ 1061.30 and 1061.31 shall be classified each month by the market administrator pursuant to the provisions of §§ 1061.41 through 1061.46; and

(b) If any water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk utilized or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1061.41 Classes of utilization.

Subject to the conditions set forth in §§ 1061.42 through 1061.46, inclusive, 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 as a fluid milk product except as provided in subparagraphs (2), (3), and (4) of paragraph (b);

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce butter, butteroil, anhydrous milkfat, plain or sweetened condensed milk or skim milk, and condensed buttermilk; nonfat dry milk, dry whole milk, dried buttermilk, dried whey, and blends of dried milk products including dry ice cream mix; cheese and cheese foods; ice cream, ice milk and frozen desserts including mixes for freezing; sterile products in hermetically sealed metal or glass containers;

(2) Represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk product prior to such addition;

(3) Disposed of in bulk in the form of a fluid milk product to any commercial food processing establishment where food products are prepared only for consumption off the premises;

(4) Dumped or disposed of for animal feed;

(5) In inventory of bulk fluid milk products on hand at the end of the month;

(6) In shrinkage of the skim milk and butterfat, respectively, assigned pursuant to § 1061.42(a) but not in excess of:

(i) Two percent of producer milk described in § 1061.16(a) and producer milk diverted pursuant to § 1061.17(b) by a pool plant operator;

(ii) Plus 1.5 percent of milk received in bulk tank lots from other pool plants;

(iii) Plus 1.5 percent of producer milk described in § 1061.16(b) except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iv) Plus 1.5 percent of milk received in bulk tank lots from other order plants exclusive of the quantity for which Class II use was requested by the operators of both plants;

(v) Plus 1.5 percent of milk in bulk tank lots from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler;

(vi) Less 1.5 percent of milk in bulk tank lots transferred from pool plants to other plants; and

(vii) Less 1.5 percent of producer milk diverted pursuant to § 1061.17(b) except that if the operator of the plant to which the milk is diverted accounts for such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(7) In shrinkage of skim milk and butterfat allocated pursuant to § 1061.42 (b); and

(8) In shrinkage of skim milk and butterfat, respectively, resulting from milk for which the cooperative association is the handler pursuant to § 1061.13 (b) and (c) not being delivered to nonpool plants and pool plants, but not in excess of one-half percent of the quantity received by the cooperative association from producers as determined by farm weights exclusive of the quantity for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1061.42 Shrinkage.

The market administrator shall prorate shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk at each pool plant between the following:

(a) The net quantity of producer milk and other fluid products specified in § 1061.41(b)(6); and

(b) Other source milk exclusive of that specified in § 1061.41(b)(6).

§ 1061.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise, however as to milk delivered to a pool plant by a cooperative association handler pursuant to § 1061.13(c), said pool plant operator shall have the burden of proving the classification of such skim milk and butterfat defined in § 1061.16 (b) and the cooperative association handler shall have the burden of proving the classification of the skim milk and butterfat defined in § 1061.16(c).

(b) Milk received by a handler operating a pool plant from a cooperative association handler pursuant to § 1061.13 (c), 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 pool obligation pursuant to § 1061.70; and

(c) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1061.44 Transfers.

Skim milk or butterfat transferred in the form of a fluid milk product from a pool plant to another plant or diverted in such form to a nonpool plant shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1061.46(a)(9) and the corresponding step of (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1061.46(a)(4) and the corresponding step of (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1061.46(a) (8) or (9) and the corresponding steps of § 1061.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred from a pool plant in packaged form to a nonpool plant that is not an other order plant;

(d) As Class I milk if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1061.30 or § 1061.31;

(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;

(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 utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid products received from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivision (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk;

(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 under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If both the transferor and transferee handlers so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1061.41; and

(f) As Class I milk, if transferred or diverted to an exempt governmental plant.

§ 1061.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct mathematical and other obvious errors in the reports submitted pursuant to §§ 1061.30 and 1061.31 by each handler and compute the total pounds of skim milk and butterfat in each class for each handler as follows:

(a) The market administrator shall combine the receipts and utilization in each of the respective classes at all pool plants of a handler including diversions from such pool plants by the handler and shall allocate such combined utilization pursuant to § 1061.46 and shall compute the obligation of such handler pursuant to § 1061.70 based on the combined utilization; and

(b) The market administrator shall allocate pursuant to § 1061.46 and compute the obligation pursuant to § 1061.70 of a cooperative association on producer milk pursuant to § 1061.16 (c) and (d) for which it is the handler pursuant to § 1061.13 (b) and (c) separately from the operations of any pool plant operated by such cooperative association.

§ 1061.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1061.45, the market administrator shall determine the classification of producer milk for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1061.41(b)(6);

(2) Subtract from the pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of packaged fluid milk products 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 II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order; and

(iv) Receipts of fluid milk products from an exempt governmental plant;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, 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 utilization; or

(b) The pounds of skim milk in receipts which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts of fluid milk products from pool plants of other handlers, and receipts of fluid milk products in bulk from other order plants; and

(ii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the transferee handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products (and for the first month this order is effective, in packaged fluid milk products) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class II 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 other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5)(ii) of this paragraph;

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger

of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1061.22(i) or the percentage that Class II 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 pool plants of other handlers according to the classification assigned pursuant to § 1061.44(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

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

MINIMUM PRICES

§ 1061.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S. Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices, the basic formula price shall be not less than $4.33.

§ 1061.51 Class prices.

Subject to the provisions of § 1061.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $0.86 for the first 18 months from the effective date of this order, and plus an additional 20 cents.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price for the month.

§ 1061.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month pursuant to § 1061.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S. Department of Agriculture for the preceding month by 0.12.

(b) *Class II price.* Multiply the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) butter at New York, as reported by the U.S. Department of Agriculture for the month by 0.115.

§ 1061.53 Equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1061.60 Plants subject to other Federal orders.

The provisions of this order shall not apply with respect to the plant of a handler that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1061.11 and a greater volume of fluid milk products is disposed of from such plant in this marketing area on routes and to pool plants qualified on the basis of route distribution in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

§ 1061.61 Obligations 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 § 1061.31(c) 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 § 1061.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the 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 § 1061.70(f) and a credit in the amount specified in § 1061.83(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1061.31(c) a similar report 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 § 1061.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) 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;

(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, subtract its value at the uniform price pursuant to § 1061.71.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1061.70 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1061.13(a) and of each cooperative association handler with respect to its producer milk pursuant to § 1061.16 (c) and (d), shall be a sum of money computed for each

month by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1061.46(c) by the respective class prices;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1061.46(a)(11) and the corresponding step of § 1061.46(b) by the respective class prices;

(c) Add an amount equal to the difference between the value at the Class II price for the preceding month and the value at the Class I price for the current month with respect to skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(6) and the corresponding step of § 1061.46(b);

(d) Add (or subtract, pursuant to the proviso of this paragraph) an amount equal to the difference between the value at the Class I price of the preceding month and the value at the Class I price of the current month with respect to skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(3) and the corresponding step of § 1061.46(b): *Provided*, That if the value at the Class I price for the current month is less than the value at the Class I price for the preceding month, the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price and the value at the Class II price, with respect to skim milk and butterfat from other source milk subtracted from Class I pursuant to § 1061.46(a)(4) and the corresponding step of § 1061.46(b); and

(f) Add an amount equal to the value at the Class I price with respect to skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(8) and the corresponding step of § 1061.46(b).

§ 1061.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1061.70 for all handlers who filed reports pursuant to §§ 1061.30 and 1061.31(b) for the month and who made the payments pursuant to §§ 1061.80 and 1061.83 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (d) of this section is more than 3.5 percent or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1061.81 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1061.70(f); and

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

Payments for Milk

§ 1061.80 Time and method of payment.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) and (c) of this section:

(1) On or before the 20th day of the following month not less than the uniform price, adjusted by the butterfat differential computed pursuant to § 1061.81 and less the following amounts:

(i) The payments made pursuant to subparagraph (2) of this paragraph;

(ii) Marketing service deductions pursuant to § 1061.91; and

(iii) Any proper deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1061.84 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(2) A partial payment on or before the fifth day of the following month to each producer who had not discontinued shipping milk to such handler at not less than the Class II price for the preceding month for producer milk received during the first 15 days of the month (without deduction for hauling);

(b) Payments required in paragraph (a) of this section shall be made on or before the second day prior to the dates set forth in paragraph (a) of this section to a cooperative association (except as specified in paragraph (c) of this section) qualified under § 1061.5, or its duly authorized agent, if the cooperative association so requests and the market administrator determines it is authorized by its members to collect payments for their milk. Payments to the cooperative association under this paragraph shall be made subject to the condition that the association has provided the handler with a promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association; and

(c) On or before the 11th day after the end of the month, each handler shall pay a cooperative association which is a handler with respect to all skim milk and butterfat received by him from a pool plant operated by such cooperative association not less than the applicable class prices.

§ 1061.81 Butterfat differential to producers.

The uniform price pursuant to § 1061.71 shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I milk and Class II milk pursuant to § 1061.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1061.82 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 §§ 1061.61, 1061.83, and 1061.85 and out of which he shall make all payments due handlers pursuant to §§ 1061.84 and 1061.85: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 1061.83 Payments to the producer-settlement fund.

On or before the 14th 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 net pool obligation computed pursuant to § 1061.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1061.80; and

(2) The value of such handler's receipts of other source milk for which a value is computed pursuant to § 1061.70 (f) at the uniform price.

§ 1061.84 Payments out of the producer-settlement fund.

On or before the 16th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1061.82, to each handler the amount, if any, by which the amount computed pursuant to § 1061.83(b) exceeds the amount computed pursuant to § 1061.83 (a).

§ 1061.85 Adjustment of accounts.

When verification by the market administrator of reports or payment of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the

date for making payment next following such disclosure.

§ 1061.86 Statement to producer.

In making payment to individual producers as required by § 1061.80, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month involved, and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of the milk received from the producer;

(c) The minimum rate at which payment to the producer is required pursuant to § 1061.80;

(d) The rate used in making the payment if such rate is other than the applicable minimum;

(e) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1061.91, together with a description of the respective deductions;

(f) The net amount of the payment to the producer.

Miscellaneous

§ 1061.90 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 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b), other source milk allocated to Class I pursuant to § 1061.46(a) (4) and (8) and the corresponding steps of § 1061.46(b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1061.91 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1061.80 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of member producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1061.92 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to § 1061.83 shall be increased four-tenths of 1 percent for each month or portion thereof that such payment is overdue.

§ 1061.93 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 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 months during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producers or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notified 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 obligations 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.

§ 1061.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1061.95 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.

Effective Time, Suspension, or Termination

§ 1061.100 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1061.101.

§ 1061.101 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1061.102 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market

administrator, or such persons, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1061.103 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Effective date. Sections 1061.1 through 1061.46, and 1061.94 through 1061.103 shall be effective on and after April 1, 1969, and all of the remaining provisions shall be effective on and after May 1, 1969.

Signed at Washington, D.C., on March 26, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69-3747; Filed, Mar. 28, 1969; 8:45 a.m.]

[Milk Order No. 68]

PART 1068—MILK IN THE MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

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

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

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

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

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

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such amount not to exceed 3 cents per hundredweight as the Secretary may prescribe, with respect to (i) producer milk (including such handler's own production), (ii) other source milk allocated to Class I pursuant to § 1068.46(a) (3) and (6) and the corresponding steps of § 1068.46(b) and (iii) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

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

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

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

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

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

DEFINITIONS

MARKET ADMINISTRATOR

REPORTS, RECORDS, AND FACILITIES

CLASSIFICATION

MINIMUM PRICES

APPLICATION OF PROVISIONS

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

AUTHORITY: The provisions of this Part 1068 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1068.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 1068.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1068.3 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1068.4 Minneapolis-St. Paul, Minn., marketing area.

"Minneapolis-St. Paul, Minn., marketing area" (referred to in this part as the "marketing area") means all the territory within the boundaries of the townships and counties listed below. The marketing area shall include all territory that is now, or in the future, occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishment if any part of such territory is within the designated geographical limits of the marketing area.

MINNESOTA COUNTIES

Anoka.	Mille Lacs.
Benton.	Pine.
Carver.	Ramsey.
Chisago.	Renville.
Dakota.	Scott.
Hennepin.	Sherburne.
Isanti.	Sibley.
Kanabec.	Stearns.
Kandiyohi.	Washington.
McLeod.	Wright.
Meeker.	

WISCONSIN COUNTIES

In Pierce County, the townships of:

Clifton.	River Falls.

In St. Croix County, the townships of:

Hudson.	Stanton.
Kinnickinnic.	Star Prairie.
Richmond.	Troy.
St. Joseph.	Warren.
Somerset.	

§ 1068.5 Market administrator.

"Market administrator" means the person designated pursuant to § 1068.20 as the agency for the administration of this part.

§ 1068.6 Person.

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

§ 1068.7 Route.

"Route" means any delivery either inside or outside the marketing area (including disposition by a vendor or from a plant store or from vending machines) of any item of Class I milk to a wholesale or retail stop, including any governmentally operated institution, but excluding any disposition of skim milk or butterfat not eligible for sale in fluid form as Grade A milk or cream in the marketing area from a nonpool plant to any other plant or to a commercial processor of foods.

§ 1068.8 Plant.

"Plant" means the entire land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, maintained and operated at the same location primarily for the receiving, processing or other handling of milk or milk products. Under this definition any separate portion of a premises or facilities qualified under § 1068.9(b) used to receive, process, or otherwise handle milk shall be deemed to be a separate plant. This definition shall not include any building, premises, facilities, or equipment used primarily (a) to hold or store bottled milk or milk products in finished form in transit for wholesale or retail distribution on a route(s), or (b) to transfer milk from one conveyance to another in transit from farm to plant of first receipt.

§ 1068.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraphs (a) or (b) of this section, but not any plant withdrawn pursuant to paragraph (c) of this section, any plant exempt pursuant to § 1068.62, or the plant of a producer-handler.

(a) A plant in which milk is processed or packaged and from which not less than 15 percent of its total disposition of Class I milk during the month either by the operator of such plant or by another person is made within the marketing area on a route(s): *Provided*, That the total quantity of Class I milk disposed of from such plant during the month either inside or outside the marketing area, is equal to 30 percent or more of such plant's total receipts of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area in any of the months of January through June, or to 50 percent or more of such total receipts in any of the months of July through December; or

(b) Any plant from which during any month 40 percent or more of such plant's total receipts for such month from farms of skim milk or butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered to (1) a plant(s) which has qualified pursuant to paragraph (a) of this section, (2) any other plant(s) located within the marketing area from which Class I milk is disposed of within the marketing area on a route(s), or (3) a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities: *Provided*, That if during each of the months of August, September, and October 40 percent or more of such plant's receipts of skim milk or butterfat for such month as described above is delivered as provided in this paragraph, it shall be a pool plant through the following July: *And provided further*, That any deliveries of milk by a cooperative association during the months of August, September, and October directly from a farm(s) of its producer member(s) to a plant(s) described in paragraph (a) of this section may be considered, for purposes of this paragraph, as having been received first at a plant of such cooperative association.

(c) Upon notice by the handler in writing received by the market administrator, or postmarked, on or before the last day of any month, any plant qualified as a pool plant pursuant to paragraph (b) of this section may be withdrawn from pool plant status beginning with the next month: *Provided however*, That any such plant withdrawn from pool plant status may not regain status prior to the next August 1 and then only by meeting the requirements set forth prior to the first proviso in paragraph (b) of this section in the manner of a plant qualifying for pool plant status for the first time.

§ 1068.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products eligible for sale as

Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a Grade A fluid milk product is shipped during the month to a pool plant.

§ 1068.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Received from the farm at a pool plant; or

(b) Moved in accordance with the conditions of § 1068.44(c) but allotted to a pool plant by listing on the payroll report of such plant pursuant to § 1068.32, which milk shall be deemed to be received at such pool plant.

§ 1068.12 Producer milk.

"Producer milk" or "milk received from producers" means milk produced by one or more producers (as defined in § 1068.11).

§ 1068.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s): *Provided*, That any cooperative association qualifying as a handler pursuant to this paragraph shall be, for the purposes of making payments pursuant to § 1068.84, the handler also with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of another handler(s);

(b) Any person in his capacity as the operator of a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(c) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either distributed on routes in the marketing area or shipped to a pool plant; or

(d) A producer-handler.

(e) Any person in his capacity as the operator of an unregulated supply plant.

§ 1068.14 Cooperative association.

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

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

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

(c) Has its entire activities under the control of its members.

§ 1068.15 Producer-handler.

Producer-handler means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distribution plant at which Grade A milk of his own production is processed and packaged, and disposed of as Class I milk on routes in the marketing area;

(b) Receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts of not more than 50,000 pounds of milk (3.5 percent milk equivalent of butterfat) during the month by transfer from pool plants of other handlers;

(c) Receives no nonfluid milk products from any source for use in reconstituting fluid milk products;

(d) Has route disposition consisting only of skim milk and butterfat obtained from his own farm production except that received pursuant the exception set forth in paragraph (b) of this section; and

(e) The maintenance, care and management of the dairy animals and other resources necessary to produce such milk and the processing, packaging, or distribution of such milk are the personal enterprise, and the personal risk, of such person.

§ 1068.16 Other source milk.

"Other source milk" means all skim milk and butterfat:

(a) Other than that contained in producer milk or received from a pool plant(s); and

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

§ 1068.18 Chicago butter price.

"Chicago 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 Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

§ 1068.19 Fluid milk product.

"Fluid milk product" means milk, skim milk (including reconstituted skim milk), concentrated milk, buttermilk, flavored milk, flavored milk drinks (except any such item disposed of as animal feed and sterilized milk, cream or milk drinks in metal containers hermetically sealed), cream (sweet or sour, including "Smetana" and similar sour cream products and mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream): *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.

MARKET ADMINISTRATOR

§ 1068.20 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.

§ 1068.21 Powers.

The market administrator shall:

(a) Administer the terms and provisions of this part;

(b) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this part;

(c) Recommend to the Secretary amendments to this part; and

(d) Make rules and regulations to effectuate the terms and provisions of this part.

§ 1068.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 1068.90, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by § 1068.91;

(c) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(d) Unless otherwise directed by the Secretary publicly disclose within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 20 days after the date on which he is required to perform such acts, has not (1) made reports pursuant to § 1068.30 or (2) made payments pursuant to §§ 1068.80, 1068.84, and 1068.86; and may at any time thereafter so disclose any such name if authorized by the Secretary;

(e) Verify each handler's reports and payments by inspection of such handler's records and the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(f) Prepare and disseminate to the public such statistics and information concerning the operations under this order as he deems advisable and as do not reveal confidential information;

(g) On or before the fifth working day of each month, mail to all handlers and

make public announcement of the Class I price computed pursuant to § 1068.53, and the butterfat differential computed pursuant to § 1068.56(a) for the then current month, and the Class II price computed pursuant to § 1068.54 and the butterfat differential computed pursuant to § 1068.56(b) for the preceding month; and

(h) On or before the 15th day after the end of each month, mail to all handlers and make public announcement of the uniform price computed pursuant to § 1068.71;

(i) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1068.46(a)(7) and the corresponding step of § 1068.46(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;

(j) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1068.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(k) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1068.30 Monthly reports of receipts and utilization.

(a) On or before the 10th day of each month and in the detail and on forms prescribed by the market administrator, each person who is a handler pursuant to § 1068.13(a) shall report, separately for each pool plant, to the market administrator for the preceding month with respect to all milk and milk products, except any milk product defined as Class II milk which is disposed of in the form in which received without further processing or packaging by the handler, received at each pool plant, the following:

(1) The quantities of skim milk and the quantities of butterfat contained in milk received from producers (including such handler's own production) producer-handler's and other pool plants.

(2) The quantities of skim milk and quantities of butterfat contained in other source milk, with the sources thereof;

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including on a skim milk equivalent basis any nonfat milk solids used to fortify (or as an additive to) any milk product as described in § 1068.45, and including the quantities of skim milk and butterfat on hand at the beginning and end of each month as milk and milk products;

(4) [Reserved]

(5) Such other information with respect to all receipts and utilization as the market administrator may prescribe.

(b) Each handler specified in § 1068.13(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk;

(c) Each handler specified in § 1068.13(e) who operates an unregulated supply plant shall report as required in paragraph (a) of this section, except that the receipts in Grade A milk shall be reported in lieu of those in producer milk.

§ 1068.31 Reports of producer-handlers.

Each producer-handler shall make reports to the market administrator at such times and in such manner as the market administrator shall prescribe.

§ 1068.32 Reports as to producers and cooperative associations of producers.

On or before the last day of each month, each handler shall submit to the market administrator such handler's producer payroll for the preceding month which shall show for each producer and cooperative association (a) the total pounds of milk delivered with the average butterfat test thereof, and (b) the net amount of the payment to each producer and to each cooperative association, together with the prices, deductions and charges involved.

§ 1068.33 Records and facilities.

Each handler shall permit the market administrator to make such examination of his operations, equipment and facilities as the market administrator deems necessary and shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of operations and such facilities as the market administrator deems necessary to verify or to establish the correct data with respect to (a) the receipts and utilization in whatever form of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing or packaging; (b) the weights, and tests for butterfat and for other contents, of all other skim milk or butterfat handled; (c) payments to producers and cooperative associations; and (d) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each month.

§ 1068.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if within such 3-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1068.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received by each handler during each month which is required to be reported pursuant to § 1068.30 (a) and (b) shall be classified by the market administrator pursuant to the provisions of §§ 1068.41 through 1068.46.

§ 1068.41 Classes of utilization.

Subject to the conditions set forth in §§ 1068.42 through 1068.46, inclusive, 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 except as provided in paragraph (b) (3) and (4) of this section.

(2) Not accounted for as Class II milk.

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

(1) Skim milk and butterfat used to produce a milk product other than those specified in paragraph (a) of this section;

(2) Skim milk and butterfat stored in a public cold storage warehouse as frozen cream;

(3) Skim milk and butterfat contained in any item included under paragraph (a) of this section disposed of as animal feed;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk products prior to such addition; and

(5) In shrinkage assigned pursuant to § 1068.42(b)(1) of skim milk and butterfat, respectively, but not in excess of:

(i) Two percent of producer milk; plus

(ii) 1.5 percent of milk received in bulk tank lots from other pool plants; plus

(iii) 1.5 percent of milk received in bulk from a cooperative association which is a handler by virtue of the delivery of producer milk for its account from the farms of producers directly to the pool plant, except that if the handler operating the pool plant files notice with the market administrator, prior to the first day of the month, that the purchase of such milk is on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable maximum percentage shall be 2 percent; plus

(iv) 1.5 percent of milk received in bulk tank lots from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants; plus

(v) 1.5 percent of milk in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) 1.5 percent of milk in bulk tank lots transferred to other plants; (if the receipt of milk is on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1068.42(b)(2).

§ 1068.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) Prorate the resulting amounts among the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other milk specified in § 1068.41(b)(5); and

(2) Other source milk exclusive of that specified in § 1068.41(b)(5).

§ 1068.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat received by a handler shall be Class I milk unless the handler who first received such skim milk and butterfat proves to the market administrator that it should be classified otherwise; and

(b) Any skim milk and butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1068.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1068.46(a)(7) and the corresponding step of § 1068.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1068.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1068.46(a)(6) or (7) and the corresponding steps of § 1068.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if moved to a nonpool plant by a cooperative association directly from the farm of the producer and the nonpool plant is one from which milk is disposed of in fluid form on routes;

(d) As Class I milk, if transferred to a nonpool plant that is neither an other order plant nor a producer-handler plant and is located beyond a 150-mile radius from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minn., except that cream so transferred in bulk form shall be Class II if no fluid milk products are distributed on routes from the receiving plant;

(e) As Class I milk, if transferred in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is within a radius of 150 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minn., 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 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 § 1068.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for puposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

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

(6) If the form in which any fluid milk products is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1068.41.

§ 1068.45 Computation of milk in each class.

For each month the market administrator shall correct mathematical and other obvious errors in the monthly report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for each handler: *Provided*, That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, and any other product condensed from milk or skim milk, are utilized by such handler either (a) to fortify (or as an additive to) fluid milk, flavored milk, skim milk, or any other milk product, or (b) for disposition by a handler in reconstituted form as skim milk or a milk drink, the total pounds of skim milk computed for the appropriate class of use shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids.

§ 1068.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1068.45, the market administrator shall determine the classification of producer milk for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1068.41(b)(5);

(2) Subtract from the pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a cooperative association as a handler pursuant to the proviso of § 1068.13(a), receipts from pool plants of other handlers, 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 utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) 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 (3)(i) of this paragraph;

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

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1068.22(i) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1068.44(a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

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

MINIMUM PRICES

§ 1068.50 Class prices.

Each handler shall pay, at the time and in the manner set forth in §§ 1068.80 through 1068.84, not less than the prices set forth in §§ 1068.53 and 1068.54 for all milk received during each month from producers and cooperative associations: *Provided*, That with respect to skim milk and butterfat transferred from the pool plant of, or caused to be delivered as producer milk by, a cooperative association which is a handler to the pool plant of another handler, the applicable class price shall be that for the location of the latter plant.

§ 1068.51 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

§ 1068.52 [Reserved]

§ 1068.53 Class I price.

Subject to the differentials provided in §§ 1068.55 and 1068.56(a) the price per hundredweight for Class I milk each month shall be the basic formula price for the preceding month plus $0.86, and plus 20 cents.

§ 1068.54 Class II price.

The price per hundredweight for Class II milk shall be the basic formula price.

§ 1068.55 Location differential to handlers.

The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant located a radius of 15 miles and beyond the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minn., shall be reduced by the amount indicated below. Such deduction shall be based on the mileage as computed by the market administrator:

Location of plant (miles)	*Amount of deduction (cents)*
Less than 15	0
15 but less than 20	3
20 but less than 30	6
30 but less than 40	9
40 but less than 50	12

Distances 50 miles and beyond, an additional 1 cent for each 10 miles or fraction thereof.

§ 1068.56 Butterfat differentials to handlers.

If the average butterfat content of the Class I milk or Class II milk, computed pursuant to § 1068.46(c), for any handler for the month is more or less than 3.5 percent, there shall be added to, or subtracted from as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply the Chicago butter price for the preceding month by 0.120 and round to the nearest one-tenth cent.

(b) *Class II milk.* Multiply by 0.115, the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) butter at New York, as reported by the Department for the month.

§ 1068.57 Equivalent price provision.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specified price is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to, or comparable with, the price specified.

APPLICATION OF PROVISIONS

§ 1068.60 Application to producer-handlers.

Sections 1068.40 through 1068.46, 1068.50 through 1068.56, 1068.62 through 1068.64, 1068.70 through 1068.73, 1068.80 through 1068.87, and 1068.90 through 1068.93 shall not apply to the handling of milk by producer-handlers.

§ 1068.61 Producer-handlers.

Any handler claiming producer-handler status shall furnish to the market administrator, for verification, evidence of his qualifications as a producer-handler pursuant to § 1068.15 and shall furnish evidence of subsequent changes made in the manner of producing, securing, or distributing milk that affect such qualifications as a producer-handler; such verification by the market administrator shall be made within 15 days of receipt of the evidence and shall be effective as of the first day of the month during which verification is made.

§ 1068.62 Milk under more than one Federal order.

Milk received at a plant qualified as a pool plant under § 1068.9 shall be exempt from the provisions of this order if the conditions of paragraphs (a) and (b) of this section are met: *Provided*, That the handler of such milk shall make reports to the market administrator with respect to his total receipts and utilization of skim milk and butterfat at such times and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with § 1068.33:

(a) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to another regulated area as defined in another marketing agreement or order issued pursuant to the act either on routes or through plants regulated by such other marketing agreement or order than is disposed of from such plant in the Minneapolis-St. Paul marketing area either on routes or through other pool plants; and

(b) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part.

§ 1068.63 Butterfat in fluid skim milk.

For classification purposes, pursuant to §§ 1068.40 through 1068.46, butterfat in skim milk either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.065 percent, unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1068.64 Obligations 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 § 1068.30(b) and 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 § 1068.70 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 for an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the 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 § 1068.70(d) and a credit in the amount specified in § 1068.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1068.30(b) a similar report 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 § 1068.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler of 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 (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) 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;

(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 pursuant to § 1068.71 at the same location or at the Class II price, whichever is higher.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1068.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association), as computed pursuant to § 1068.46(c), by the applicable class prices:

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1068.46(a)(9) and the corresponding step of § 1068.46(b) by the applicable class prices;

(c) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(3) and the corresponding step of § 1068.46(b); and

(d) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk

and butterfat subtracted from Class I pursuant to § 1068.46(a)(6) and the corresponding step of § 1068.46(b).

§ 1068.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1068.70 for all handlers who filed reports pursuant to § 1068.30 for the month and who made the payments pursuant to §§ 1068.80 and 1068.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1068.81 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1068.82;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1068.70(d); and

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

§ 1068.72 [Reserved]

§ 1068.73 Notification of handlers.

On or before the 15th day of each month the market administrator shall notify each handler of:

(a) The amount and value of his producer milk in each class computed pursuant to §§ 1068.46 and 1068.70, and the totals of such amounts and values;

(b) The uniform price (§ 1068.71);

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The amounts to be paid by each handler pursuant to §§ 1068.80, 1068.84, 1068.86, 1068.90, 1068.91, and 1068.92.

Payments for Milk

§ 1068.80 Time and method of payment.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) On or before the 11th day after the end of the month in which the skim milk or butterfat was received, to a cooperative association which is a handler, at not less than the applicable class prices for all skim milk and butterfat received from a pool plant(s) operated by such cooperative association or caused by it to be delivered to such handler from producers' farms, less the amount of payment made pursuant to paragraph (c) of this section.

(b) On or before the 21st day after the end of the month during which the milk was received, to each producer for milk not caused to be delivered to such handler by a cooperative association which is a handler, as follows: *Provided*, That such payment shall be made, upon request, to a cooperative association which is not a handler, or to its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 20th day after the end of such month.

(1) At not less than the uniform price computed pursuant to § 1068.71, subject to the butterfat and location differentials set forth in §§ 1068.81 and 1068.82, and less the amount of payment made pursuant to paragraph (c) of this section; and

(c) Handlers (other than cooperative associations) shall make partial payments to producers and cooperative associations pursuant to subparagraphs (1) and (2) of this paragraph: *Provided*, That in the event any producer discontinues shipping to such handler during the month, such partial payment shall not be made and full payment for all milk received from such producer during such month shall be made pursuant to paragraphs (a) and (b) of this section.

(1) On or before the 25th day of each month, each handler shall make payment, except as set forth in subparagraph (2) of this paragraph, to each producer, at not less than the applicable uniform price computed pursuant to § 1068.71(f) for the preceding month, for the milk of such producer received by such handler during the first 15 days of the current month;

(2) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is not a handler for milk of producers from whom such association has received written authorization to collect payment, at not less than such uniform price for the preceding month, for all such milk received by such handler during the first 15 days of the current month; and

(3) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is a handler, at not less than the applicable Class I price for the current month pursuant to § 1068.53, for all skim and butterfat received from a pool plant(s) operated by such cooperative association, or caused by such association to be delivered from the producers' farms to such handler, during the first 15 days of the current month.

(4) All payments made pursuant to this paragraph shall be subject to the butterfat and location differentials pursuant to §§ 1068.81 and 1068.82.

§ 1068.81 Butterfat differential to producers.

The uniform price pursuant to § 1068.71 shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1068.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1068.82 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to § 1068.80 (b) and (c) for milk received at a pool plant located a radius of 15 miles and beyond the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minn., each handler shall deduct from the applicable price payable to such producers the amount indicated below. Such deduction shall be based on the mileage as computed by the market administrator:

Location of plant (miles)	*Amount of deduction (cents)*
Less than 15	0
15 but less than 20	3
20 but less than 30	6
30 but less than 40	9
40 but less than 50	12

Distances 50 miles and beyond, an additional 1 cent for each 10 miles or fraction thereof.

(b) For the purpose of computations pursuant to §§ 1068.84 and 1068.85, the uniform price shall be adjusted at the rates set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received.

§ 1068.83 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 §§ 1068.64, 1068.84, and 1068.86 and out of which he shall make all payments due handlers pursuant to §§ 1068.85 and 1068.86; *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 1068.84 Payments to the producer-settlement fund.

On or before the 18th 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: *Provided*, That payment made by a cooperative association as a handler pursuant to this paragraph with respect to milk transferred to another handler from the pool plant of such cooperative association or caused to be delivered to such handler from the farms of producers for the account of such cooperative association shall not relieve the

transferee handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1068.80 through 1068.92, inclusive:

(a) The net pool obligation computed pursuant to § 1068.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1068.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1068.70(d).

§ 1068.85 Payments out of the producer-settlement fund.

On or before the 19th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1068.83, to each handler the amount, if any, by which the amount computed pursuant to § 1068.84(b) exceeds the amount computed pursuant to § 1068.84(a).

§ 1068.86 Adjustments to payments.

(a) Whenever verification by the market administrator of reports or payments by any handler discloses errors in payments to the producer-settlement fund pursuant to § 1068.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make payment to such handler.

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association discloses payment of less than is required by § 1068.80, the handler shall pay the balance due such producer or cooperative association not later than the time for making payments next following such disclosure.

§ 1068.87 Statement to producers.

In making payment to individual producers as required by § 1068.80, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month involved, and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of the milk received from the producer;

(c) The minimum rate at which payment to the producer is required pursuant to § 1068.80;

(d) The rate used in making the payment if such rate is other than the applicable minimum;

(e) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1068.91, together with a description of the respective deductions; and

(f) The net amount of the payment to the producer.

MISCELLANEOUS

§ 1068.90 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1068.46(a) (3) and (6) and the corresponding steps of § 1068.46 (b) and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1068.91 Marketing services.

(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1068.80, shall make a deduction of 6 cents per hundredweight, or such lesser deduction as the Secretary from time to time may prescribe, with respect to all milk received from producers' farms during the month, and shall pay such deductions to the market administrator on or before the 18th day after the end of such month. Such monies shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from, said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, no such deduction shall be made.

§ 1068.92 Adjustment of overdue accounts.

Any balance of payment due from a handler pursuant to §§ 1068.80 (a) and (b), 1068.84, 1068.86, and this section for which remittance has not been made by the close of business on the next day following the date specified for such payment shall be increased four-tenths of 1 percent, and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid.

§ 1068.93 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose except an obligation involved in an action instituted before August 1, 1949, under section 8c(15)(A) of the act or before a court.

(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 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 obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his 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 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, by the handler against whom the obligation is sought to be imposed; and

(d) Any obligation of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or set-off 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.

§ 1068.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1068.100 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1068.101.

§ 1068.101 Suspension or termination.

The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 1068.102 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such persons pursuant thereto.

§ 1068.103 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Effective date: May 1, 1969.

Signed at Washington, D.C., on March 26, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69-3748; Filed, Mar. 28, 1969; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305(a), is amended to show that the title of the positions of Assistant to the Secretary (National Security Affairs) and one Deputy Assistant to the Secretary (National Security Affairs) have been changed to Special Assistant to the Secretary (National Security Affairs) and one Deputy Special Assistant to the Secretary (National Security Affairs). Effective on publication in the FEDERAL REGISTER, subparagraphs (8) and (29) of paragraph (a) are amended as set out below.

§ 213.3305 Department of Treasury.

(a) *Office of the Secretary.* * * *

(8) Special Assistant to the Secretary (National Security Affairs).

* * * * *

(29) One Deputy Special Assistant to the Secretary (National Security Affairs).

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSON,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3762; Filed, Mar. 28, 1969; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that the positions of one Confidential Assistant to the Under Secretary and of one Confidential Secretary to an Assistant Secretary are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraphs (36) and (37) are added to paragraph (a) of § 213.3305 as set out below.

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(36) One Confidential Assistant to the Under Secretary.

(37) One Confidential Secretary to an Assistant Secretary.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3822; Filed, Mar. 28, 1969; 8:50 a.m.]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show the revocation of the Schedule C exception for the abolished position of Private Secretary to the Director of the Office of Equal Opportunity and to show that the position of Private Secretary to the Assistant Secretary for Equal Opportunity is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (28) of paragraph (a) is revoked and paragraph (f) is added to § 213.3384 as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(28) [Revoked]

* * * * *

(f) *Office of the Assistant Secretary for Equal Opportunity.* (1) One Private Secretary to the Assistant Secretary.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3763; Filed, Mar. 28, 1969; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. H]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Publication of Reports of Condition

1. Effective immediately, subparagraphs (1) and (3) of § 208.9(a) are amended to read as follows:

§ 208.9 Publication of reports of member banks and their affiliates.

(a) *Reports of member banks.* (1) Each report of condition made by a member State bank to its Federal Reserve Bank pursuant to a call therefor by the Board shall be published by such member bank within 20 days from the date the call is issued, unless such time is extended by the Reserve Bank as provided in § 265.2(f)(16) of this chapter (Rules Regarding Delegation of Authority).

* * * * *

(3) The copy of the report for the use of the printer for publication should be prepared on the form supplied or authorized for the purpose by the Federal Reserve Bank. Except as permitted in the instructions for preparation of reports of condition (Form F.R. 105a), the published information shall agree in every respect with that shown on the face of the report of condition submitted to the Federal Reserve Bank. All signatures shall be the same in the published statement as in the original report submitted to the Federal Reserve Bank, but the signatures may be typewritten or otherwise copied on the report for publication.

* * * * *

2a. The purposes of these amendments are (1) to authorize Reserve Banks, for good cause shown, to extend for 10 days the time for publishing reports of condition and to grant such extensions for longer periods in very unusual circumstances beyond control of the reporting bank and (2) to permit or require published reports of condition to differ from the report submitted to the Reserve Bank in the various respects detailed in the Instructions for preparation of such reports (Form F.R. 105a).

b. The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, were not followed in connection with the adoption of these amendments, because the Board found that such actions would result in delays that would be contrary to the public interest.

Dated at Washington, D.C., this 18th day of March 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-3708; Filed, Mar. 28, 1969; 8:45 a.m.]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Specific Functions Delegated to Board Employees and Federal Reserve Banks

1. Effective immediately, § 265.2(f) is amended by adding subparagraph (16).

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

* * * * *

(16) Under § 208.9(a) of this chapter (Regulation H), for good cause shown, to extend the time for publication of reports of condition, such extensions not ordinarily to be for more than 10 days except in very unusual circumstances beyond control of the reporting bank.

2a. The purpose of this amendment is to delegate to Reserve Banks the authority to extend the time for publishing reports of condition in certain limited circumstances.

b. The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, were not followed in connection with the adoption of this amendment, because the rules contained therein are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

Dated at Washington, D.C., this 18th day of March 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-3709; Filed, Mar. 28, 1969; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-SW-15]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Shreveport, La. (Downtown Airport), control zone.

The existing control zone extension is based on the Shreveport Downtown VOR 318° true (311° magnetic) radial. An amendment to the VOR instrument approach procedure, changing the final approach course from the 318° radial to the 313° true (306° magnetic) radial is required to meet current criteria.

Action is being taken herein to change the control zone extension from the 318° radial to the 313° radial to provide controlled airspace for aircraft executing the amended approach procedure. This will not increase the amount of controlled airspace.

Since this amendment will impose no undue 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., May 29, 1969, as hereinafter set forth.

In § 71.171 (34 F.R. 4625), the Shreveport, La. (Downtown Airport), control zone is amended by deleting "* * * within 2 miles each side of the Shreveport Downtown VOR 318° radial * * *" and substituting "* * * within 2 miles each side of the Shreveport Downtown VOR 313° radial * * *" 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 Fort Worth, Tex., on March 18, 1969.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 69-3729; Filed, Mar. 28, 1969; 8:47 a.m.]

[Airspace Docket No. 68-CE-121]

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

Alteration and Revocation of Federal Airways, Revocation of Reporting Points

On January 23, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 1053) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter and revoke certain VOR Federal airways in the vicinity of Evansville, Scotland, West Point, and Indianapolis, Ind., and revoke low altitude reporting points.

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., May 29, 1969, as hereinafter set forth.

1. Section 71.123 (34 F.R. 4509) is amended as follows:

a. In V-7 all between "12 AGL Evansville, Ind.;" and "12 AGL Lafayette, Ind.;" is deleted and "12 AGL INT Evansville 015° and Lewis, Ind., 198° radials; 12 AGL Lewis; 12 AGL Terre Haute, Ind., including a 12 AGL W alternate from Evansville to Terre Haute via INT Evansville 360° and Terre Haute 215 radials;" is substituted therefor.

b. In V-11 all between "12 AGL Evansville, Ind.;" and "12 AGL Fort Wayne, Ind.," is deleted and "12 AGL Indianapolis, Ind., including a 12 AGL E alternate from Evansville to Indianapolis via INT

Evansville 046° and Bloomington, Ind., 205° radials, Bloomington, INT of Bloomington 025° and Indianapolis 185° radials;" is substituted therefor.

c. In V–53 all between "12 AGL Indianapolis;" and "12 AGL Peotone;" is deleted and "12 AGL INT Indianapolis 312° and Lafayette, Ind., 159° radials; 12 AGL Lafayette; 12 AGL INT Lafayette 313° and Peotone, Ill., 152° radials;" is substituted therefor.

d. In V–128 all between "12 AGL Peotone;" and "12 AGL Indianapolis 137°" is deleted and "12 AGL INT Peotone 152° and Indianapolis, Ind., 312° radials; 12 AGL Indianapolis;" is substituted therefor.

e. In V–171 all before "12 AGL Danville, Ill.;" is deleted and "From Louisville, Ky., 12 AGL Lewis, Ind., including a 12 AGL N alternate from Louisville to Lewis via INT Louisville 312° and Bloomington 153° radials, and Bloomington;" is substituted therefor.

f. In V–227 all before "12 AGL Roberts, Ill.;" is deleted and "From Lafayette, Ind.," is substituted therefor.

g. In V–243 "12 AGL Scotland, Ind." is deleted and "12 AGL Lewis, Ind." is substituted therefor.

h. V–491 is revoked.

2. In § 71.203 (34 F.R. 4792) "Scotland, Ind." and "West Point, Ind." are revoked.

(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 March 24, 1969.

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

[F.R. Doc. 69–3730; Filed, Mar. 28, 1969; 8:47 a.m.]

[Airspace Docket No. 68–CE–83]

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

Designation of Transition Area

On page 15880 of the FEDERAL REGISTER dated October 26, 1968, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Portland, Ind.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Steed Field coordinates recited in the Portland, Ind., transition area designation as "latitude 40°27'05" N., longitude 84°59'20" W." are changed to read "latitude 40°27'00" N., longitude 84°59'15" W.".

This amendment shall be effective 0901 G.m.t., May 29, 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 Kansas City, Mo., on March 11, 1969.

EDWARD C. MARSH,
Director, Central Region.

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

PORTLAND, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Steed Field (latitude 40°27'00" N., longitude 84°59'15" W.); and within 2 miles each side of the 100° bearing from Steed Field, extending from the 6-mile radius area to 8 miles East of the airport.

[F.R. Doc. 69–3731; Filed, Mar. 28, 1969; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR–35; Amdt. 4]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Miscellaneous Amendments

Correction

In F.R. Doc. 69–3500 appearing at page 5597 in the issue of Tuesday, March 25, 1969, the bracket should read as set forth above.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

TYLOSIN

A. The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Elanco Products Co., Division of Eli Lilly and Co., Indianapolis, Ind. 46206, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of tylosin in the feed of broiler chickens as an aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum*. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.217(d) is amended by adding a new item to table 3, as follows:

§ 121.217 Tylosin.

* * * * * *

(d) * * *

TABLE 3—TYLOSIN IN ANIMAL FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
7. Tylosin	800–1,000			For broiler chickens; as tylosin phosphate; withdraw 5 days before slaughter; administer in feed to chickens 0 to 5 days of age, follow with second administration in feed for 24–48 hours at 3 to 5 weeks of age.	To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum*.

B. Based upon an evaluation of the data before him and proceeding under the authority of the act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), delegated as cited above, the Commissioner concludes that the existing zero tolerance for residues of tylosin in edible products of treated animals should be changed to negligible residues of the additive as set forth below. The negligible tolerances are the basis upon which the zero tolerances were formerly established. Therefore, § 121.1049 is revised to read as follows:

§ 121.1049 Tylosin.

Tolerances are established for residues of tylosin in edible products of animals as follows:

(a) In poultry (chickens and turkeys): 0.2 part per million (negligible residue) in fat, muscle, liver, and kidney.

(b) In cattle: 0.2 part per million (negligible residue) in fat, muscle, liver, and kidney.

(c) In swine: 0.2 part per million (negligible residue) in fat, muscle, liver, and kidney.

(d) In milk: 0.05 part per million (negligible residue).

(e) In eggs: 0.2 part per million (negligible residue).

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

by a memorandum or brief in support thereof.

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

* * * * *

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: March 24, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-3711; Filed, Mar. 28, 1969; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

ADJUVANTS FOR PESTICIDE USE DILUTIONS

The following petitions were filed proposing the issuance of a regulation to provide for the safe use of the indicated adjuvants in pesticide use dilutions by a grower or applicator:

1. A petition (FAP 4H1478) by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19195, proposing safe use of polyglyceryl phthalate ester of edible coconut oil fatty acids diluted with ethylene dichloride.

2. A petition (FAP 4H1481) by Olin Mathieson Chemical Corp., 1730 K Street NW., Washington, D.C. 20006, on behalf of itself, The Dow Chemical Co., General Aniline & Film Corp., Jefferson Chemical Co., Inc., Monsanto Co., Rohm & Haas Co., Union Carbide Corp., and Wyandotte Chemicals Corp., proposing safe use of alkyl (C_8-C_{10}) phenoxypolyethoxyethanol (4–10, 30–50 moles).

3. A petition (FAP 6H1917) by Olin Mathieson Chemical Corp., 1730 K Street NW., Washington, D.C. 20006, on behalf of itself, The Dow Chemical Co., General Aniline & Film Corp., Jefferson Chemical Co., Inc., Monsanto Co., Rohm & Haas Co., Union Carbide Corp., and Wyandotte Chemical Corp., proposing safe use of alkyl (C_8-C_{10}) phenoxypolyethoxyethanol (11–15 moles).

The Commissioner of Food and Drugs, having evaluated the data in the above petitions and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of the surfactants and related adjuvants shown below in pesticide use dilutions by a grower or applicator prior to application to the growing crop. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart D a new section, as follows:

§ 121.1225 Adjuvants for pesticide use dilutions.

The following surfactants and related adjuvants may be safely added to pesticide use dilutions by a grower or applicator prior to application to the growing crop:

α-(*p*-Dodecylphenyl)-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4–14 or 30–70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–70.

Ethylene dichloride.

α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–70.

Polyglyceryl phthalate ester of coconut oil fatty acids.

α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with an average of 4–14 or 30–70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–70.

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

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

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

Dated: March 24, 1969.

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

[F.R. Doc. 69-3710; Filed, Mar. 28, 1969; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter V—Office of Interstate Land Sales Registration, Department of Housing and Urban Development

PART 1710—LAND REGISTRATION

On January 25, 1969, the Office of Interstate Land Sales Registration published in the FEDERAL REGISTER (34 F.R. 1259) proposed regulations under the authority contained in section 1419 of the Housing and Urban Development Act of 1968, effective April 28, 1969, which may be cited as the "Interstate Land Sales Full Disclosure Act" (82 Stat. 598; 15 U.S.C. 1718). The Act gives the Secretary of Housing and Urban Development the authority to require full disclosure in the sales or lease of certain undeveloped land in interstate commerce or through the mails.

Interested persons were invited to submit written comments and suggestions for consideration within 30 days after publication of the proposed regulations in the FEDERAL REGISTER. After consideration of the comments received and other factors involved, it has been decided to adopt the proposed regulations with certain modifications.

Accordingly, pursuant to the authority contained in section 1419 of the Housing and Urban Development Act of 1968, such regulations are hereby codified as set forth below.

In Title 24, Chapter V, a new Part 1710 is added as follows:

Subpart A—General Requirements

Subpart B—Reporting Requirements

AUTHORITY: The provisions of this Part 1710 issued under sec. 1419, 82 Stat. 598, 15 U.S.C. 1718.

Subpart A—General Requirements

§ 1710.1 Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

(a) "Act" means the Interstate Land Sales Full Disclosure Act, Title XIV of Public Law 90-448, 82 Stat. 590, enacted on August 1, 1968.

(b) "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

(c) "Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision.

(d) "Interstate commerce" means trade or commerce among the several states.

(e) "Offer" means any inducement, solicitation, or attempt to encourage a

person to acquire a lot in a subdivision.

(f) "Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

(g) "Purchaser" means an actual or prospective purchaser or lessee of a lot in a subdivision.

(h) "Rules and regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements and the report requirements published in this part.

(i) "Secretary" means the Secretary of Housing and Urban Development or his duly authorized representatives.

(j) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(k) "Subdivision" means any land which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan and where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering as being offered for sale or lease as part of a common promotional plan.

(l) "Unimproved land" means a lot or lots which are located in a subdivision and upon which there are no residential, commercial or industrial buildings.

§ 1710.5 General applicability.

Except in the case of an exempt transaction as provided in § 1710.10, a developer may not sell or lease unimproved land in a subdivision, making use of any means or instruments of transportation or communication in interstate commerce or of the mails, unless a statement of record is in effect in accordance with the provisions of this part; and the developer furnishes each purchaser with a printed property report, meeting the requirements of the provisions of this part, in advance of the signing of any contract or agreement for sale or lease by the purchaser. As used in this part, "unimproved land" shall include lots located in a foreign country if the offer to sell or lease the lots is made from within a State, making use of any means or instruments of transportation or communication in interstate commerce or of the mails.

§ 1710.10 Exemption.

Unless a method of sale, lease or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act, the rules and regulations in this part shall not apply to the following transactions.

(a) The sale or lease of real estate not pursuant to a common promotional plan to offer to sell 50 or more lots in a subdivision.

(b) The sale or lease of lots in a subdivision all of which are 5 acres or more in size.

(c) The sale or lease of any lots on which there is a residential, commercial, or industrial building, or to the sale or lease of land under a contract obligating the seller to erect such a building thereon within a period of 2 years.

(d) The sale or lease of real estate under or pursuant to court order.

(e) The sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate.

(f) The sale of securities issued by a real estate investment trust.

(g) The sale or lease of real estate by any government or government agency.

(h) The sale or lease of cemetery lots.

(i) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business.

(j) The sale or lease of real estate which, at the time of sale or leasing, is free and clear of all liens, encumbrances, and adverse claims (except property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed and taxes and assessments which, under applicable State or local law, constitute liens on the property before they are due and payable), and where each and every purchaser or his or her spouse will have personally inspected the lot which he purchases prior to the signing of a contract to purchase or lease and where the developer files with the Secretary an affirmation in the form set forth in § 1710.101. The time of sale or leasing shall be deemed to be the date the sales contract or lease is signed except that the time of sale shall be deemed to be the effective date of the conveyance if each of the following requirements is met:

(1) That the contract of sale will require delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(2) That any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance will be placed in a trust account fully protecting the interest of the purchaser with an established institution or organization having trust powers under the laws of the jurisdiction in which the property is located.

(k) The sale or lease of lots each of which exceeds 10,000 square feet and each of which will be sold for less than $100, including closing costs.

(l) The sale or lease of lots where the offering is entirely or almost entirely intrastate.

(m) The lease of lots for a term not to exceed 5 years, provided the terms of the lease do not obligate the lessee to renew.

§ 1710.15 Exemption advisory opinions.

A developer may obtain an advisory opinion from the Secretary as to whether an offer is exempted from the Act and the regulations in this part. Such opinion may be obtained in either of the following ways:

(a) By filing a statement of record as provided in § 1710.20 and in the form prescribed in § 1710.105, accompanied by the filing fees required by § 1710.35 and a statement of facts and applicable law under which the developer believes the offer to be exempt. Unless the developer receives an opinion that the offer is exempted, the provisions of § 1710.20 shall apply with respect to the effective date of the statement of record.

(b) By filing a partial statement of record in the form prescribed in § 1710.125, accompanied by the filing fee required by § 1710.35(g) and a statement of facts and applicable law under which the developer believes the offer to be exempt.

§ 1710.20 Statement of record and property report.

(a) Except as otherwise provided in this section, the statement of record shall be in the form set forth in § 1710.105 and shall meet each of the following requirements:

(1) Include a property report in the form set forth in § 1710.110.

(2) Be supported by complete information and supporting documentation as indicated in the prescribed form.

(3) Be filed in duplicate with the Secretary by personal delivery or by certified mail, return receipt requested, addressed to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411.

(b) The form of the statement of record and property report may be as required by State authorities if filed in accordance with the provisions of § 1710.25 and if the property report or similar instrument approved by the State is accompanied by a statement in the form set forth in § 1710.115. This statement shall be delivered to the purchaser simultaneously with the State property report.

(c) If an offering relates to lots which will be offered pursuant to the same common promotional plan as lots previously offered and covered by an effective statement of record, a developer shall file a new statement of record covering the additional lots. The developer may consolidate the new statement of record with the prior statement by incorporating by reference the information in the prior statement. The developer shall include in the consolidated statement of record any material changes which have occurred since the original filing and the consolidated statement of record must conform to all pertinent rules and regulations applicable to an original statement of record. Such consolidated statement of record shall be treated as a new statement of record for the purpose of determining the date of filing and the effective date thereof.

(d) The date of filing of a statement of record is the date the statement, accompanied by the required fee, is received by the Secretary.

(e) Except as provided in §§ 1710.40 and 1710.25 and unless the effective date is suspended by the Secretary in accordance with the provisions of § 1710.45, the effective date of the statement of record shall be the thirtieth day after the date of filing or such earlier date as the Secretary may determine.

§ 1710.25 State filings.

Except as provided in paragraph (c) of this section, if a developer complies with the requirements of § 1710.115 with respect to the property report and the requirements of § 1710.120 with respect to the statement of record, a copy of material filed with State authorities and allowed to become effective by such authorities shall be an effective statement of record, an amendment thereto, or an effective consolidation of a subsequent statement of record into an earlier statement of record, as of the date of filing such copy together with the required fee with the secretary, as follows:

(a) With respect to a subdivision located in California, Florida, New York, or Hawaii, where the material is filed in full compliance with the laws and requirements of the authorities of such State, with the exception that material filed with the State of Hawaii will not be acceptable if it was filed with that State prior to the enactment of Act 223, Session Laws of Hawaii 1967, and material filed with the State of Florida will not be acceptable if it was filed with that State prior to the enactment of section 478, Florida statutes, effective August 1, 1967.

(b) With respect to a subdivision located outside of California, Florida, New York, or Hawaii and covered by material filed with any such State, if all lots and tracts in such subdivision have been made the subject of the State filing and if there has been full compliance with the laws and requirements of the authorities in such State, with the exception that material filed with the State of Hawaii will not be acceptable if it was filed with that State prior to the enactment of Act 223, Session Laws of Hawaii 1967 and material filed with the State of Florida will not be acceptable if it was filed with that State prior to the enactment of section 478, Florida statutes, effective August 1, 1967.

(c) A statement of record or similar instrument filed in a State which is not named in paragraph (a) or (b) of this section and which has been allowed to become effective as a filing by the authorities in a State named in paragraph (a) or (b) of this section may not be filed with the Secretary for the purpose of complying with this section.

§ 1710.30 Amendments.

(a) An amendment to a statement of record shall be filed if any change occurs affecting any material fact required to be contained in a statement of record filed with the Secretary except that additional lands offered for disposition pursuant to the same common promotional plan shall not be incorporated into an effective statement of record by amendment. A statement of record for such an offering may be consolidated with an effective statement of record as provided in § 1710.20.

(b) If an amendment to a statement of record is filed prior to the effective date of the statement, the statement shall be deemed to have been filed when such amendment was filed unless such amendment is filed with the consent of or pursuant to an order of the Secretary.

(c) If an amendment to the statement of record is filed prior to the effective date of the statement and with the consent of or pursuant to an order of the Secretary, such amendment shall be treated as being filed as of the date of filing of the statement of record. Any such amendment shall be deemed to have been filed pursuant to the Secretary's consent or order only when the Secretary so advises.

(d) Any amendment to a statement of record shall be accompanied by a letter fully explaining its purpose. The letter shall identify the statement of record by OILSR filing number and shall include any and all changes to the original statement. Each change set forth in the letter shall be prefaced by an identification of the part or subpart of the statement of record to which the change relates. If the amendment requires a change in the property report, the developer shall also include a revised property report.

(e) The date of filing an amendment shall be the date the amendment is received by the Secretary.

(f) Except as provided in paragraph (c) of this section, and §§ 1710.25 and 1710.40, and unless the effective date is suspended by the Secretary in accordance with the provisions of § 1710.45, the effective date of the amendment shall be the 30th day after the date of filing or such earlier date as the Secretary may determine.

§ 1710.35 Payment of fees.

(a) Except as provided in paragraphs (b) and (c) of this section, a filing fee, not to exceed $1,000, shall be paid with the filing of a statement of record and shall be computed as follows:

(1) A basic fee in the amount of $250, plus

(2) An additional fee of $50 for each 50 lots or fraction thereof included in the offering.

(b) A filing fee, not to exceed $1,000, shall be paid with the filing of a statement of record consolidating additional lots with a prior statement of record filed on lots in a subdivision and shall be computed as follows:

(1) A basic fee in the amount of $200, plus

(2) An additional fee of $50 for each 50 lots or fraction thereof included in the offering.

(c) If a developer files pursuant to § 1710.25, a filing fee, not to exceed $1,000, shall be paid with the filing and shall be computed as follows:

(1) In the case of an initial filing:

(i) A basic fee in the amount of $200, plus

(ii) An additional fee of $25 for each 50 lots or fraction thereof included in the offering.

(2) In the case of a State filing pursuant to § 1710.25 which involves a statement of record consolidating additional lots with a prior statement of record filed in a State:

(i) A basic fee in the amount of $100, plus

(ii) An additional fee of $25 for each 50 lots or fraction thereof included in the offering.

(3) If a State will not permit a developer to consolidate a filing on additional lots into a previous statement of record filed in the State, the filing shall be treated as an initial filing and the filing fee shall be paid and computed in accordance with subparagraph (1) of this paragraph.

(d) No fee shall be required in connection with the filing of an amendment to a statement of record.

(e) Fees shall be paid by certified or cashier's check or postal money order made payable to the Treasury of the United States.

(f) If the developer files pursuant to § 1710.105 and includes a request for an exemption advisory opinion pursuant to § 1710.15(a) and the Secretary advises that the offering is exempt, the filing fee submitted by the developer except for an amount of $100 shall be refunded.

(g) If a developer files a partial statement of record-request for exemption pursuant to §§ 1710.15(b) and 1710.125, a filing fee, in the amount of $100, shall be paid with the filing. If the Secretary advises that the filing is not exempt, this fee shall apply as a credit toward the payment of the fee required for filing a complete statement of record.

§ 1710.40 Early effective date for sales in progress.

(a) A developer, who is or will be selling lots in a subdivision which has been subdivided or which has been platted of record and who is or will be engaged in an active sales program prior to May 28, 1969, may file a statement of record prior to that date. Such statement of record shall become effective on April 28, 1969, or on the date of its filing with the Secretary, whichever is the later, if the developer has complied with the requirements of paragraph (b) of this section. In no event may a developer subsequent to April 28, 1969, and prior to May 28, 1969, continue or begin a sales program until a statement of record has been filed with the Secretary.

(b) To qualify for an early effective date in accordance with the provisions of this section, the developer shall submit with the statement of record a letter stating that he is or will be selling lots in a subdivision which has been subdivided or which has been platted of record and that he is or will be engaged in an active sales program prior to May 28, 1969.

(c) Qualification for an early effective date hereunder shall not preclude the Secretary from making a review of

the statement of record subsequent to the effective date thereof to determine its completeness and accuracy nor does the acceptance of such statement of record constitute a waiver of the right of the Secretary to make such review and to require such additional information as may be necessary to bring the statement or record into conformity with the Act and these rules and regulations.

§ 1710.45 Suspensions.

(a) *Suspension notice—prior to effective date.* (1) A suspension notice with respect to a statement of record or an amendment may be issued to a developer within 30 days after receipt by the Secretary if any of the following occurs:

(i) Prior to its effective date, the Secretary has reasonable grounds to believe that a statement of record is on its face incomplete or inaccurate in any material respect.

(ii) Prior to its effective date, the Secretary has reasonable grounds to believe that an amendment is on its face incomplete or inaccurate in any material respect.

(2) Suspension notices issued pursuant to this section shall suspend the effective date of the statement of record or the amendment until 30 days, or such earlier date as the Secretary may determine, after the developer files such additional information as the Secretary shall require.

(3) A developer, upon receipt of a suspension notice may request a hearing, and such hearing shall be held within 20 days of receipt of such request by the Secretary.

(b) *Notice of proceeding; suspension orders—subsequent to effective date.* (1) A notice of proceedings to suspend an effective statement of record may be issued to a developer if any of the following occurs:

(i) The Secretary has reasonable grounds to believe that an effective statement of record includes an untrue statement of a material fact, or omits a material fact required by the Act or the rules and regulations, or omits a material fact which is necessary to make the statements therein not misleading.

(ii) The Secretary undertakes an examination of a developer or his records to determine whether a suspension order should be issued and the developer fails to cooperate with the Secretary, or obstructs, or refuses to permit the Secretary to make such examination.

(iii) Upon receipt of an amendment to an effective statement of record, the Secretary has reasonable grounds to believe that in the public interest or for the protection of purchasers, the statement of record should be suspended.

(2) The Secretary may, after notice, and after opportunity for a hearing, issue an order suspending the statement of record.

(3) In the event that a suspension order is issued, such order shall remain in effect until the developer has amended the statement of record or otherwise complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

Subpart B—Reporting Requirements

§ 1710.101 Claim of exemption—affirmation.

A claim of exemption from the Interstate Land Sales Full Disclosure Act as provided in section 1403(a)(10) of the Act and pursuant to § 1710.10(j) shall be made to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development and shall be supported by an affirmation as follows:

CLAIM OF EXEMPTION

I hereby affirm on this ____ day of _____, 19__, as follows:

That, I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

That, each and every purchaser or lessee of a lot to be covered by this exemption, or his or her spouse, will have personally inspected the lot which he purchases or leases prior to the time of sale or leasing of the lot.

That, at the time of sale or leasing, the lot will be free and clear of all liens, encumbrances, and adverse claims. The terms "liens," "encumbrances," and "adverse claims" are not intended to refer to property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed nor to taxes and assessments which, under applicable State or local law, constitute liens on the property before they are due and payable.

That, for the purposes of this claim of exemption, the undersigned agrees that the "time of sale or leasing" shall be deemed to be the date the sales contract or contract to lease is signed, except that the "time of sale" shall be deemed to be the effective date of the conveyance or lease if the following requirements are met:

(i) The contract of sale or contract to lease will require delivery of a deed to the purchaser or a lease to the lessee within 120 days following the signing of the sales contract or contract to lease, and

(ii) Any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance or lease will be placed in a trust account fully protecting the interests of the purchaser with an established institution or organization having trust powers under the laws of the jurisdiction in which the property is located.

_____
_____
(Title)

(If the affirmation is made by an agent of the developer of the subdivision, submit written authorization to act as agent.)

§ 1710.105 Statement of record—format and instructions.

The statement of record required by § 1710.20 shall be prepared in accordance with the format and instructions as follows:

Employer's IRS No.: _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____
B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. *Acres owned* _____
Acres under option or other similar arrangement _____
Total _____
C. Filings with State authorities:
1. _____
2. _____
D. Supporting documentation:
1. _____
2. _____

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. Holder of ownership interest _____
Type of legal entity _____
Extent and type of interest _____
B. Holder of interest in developer _____
Type of legal entity _____
Extent and type of interest _____
C. Supporting documentation _____

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Subdivision _____
Location _____
OILSR number _____
Date of filing _____
B. Suspensions _____

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, SUBDIVISION MAP

A. Legal description _____
B. Topography and physical characteristics:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
C. Climate and temperature:
1. _____
2. _____
D. Environmental factors:
1. _____
2. _____
E. Subdivision map:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
F. Supporting documentation:
1. _____
2. _____

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS, AND COVENANTS

A. _____
B. _____
C. _____
D. _____

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summary of General Terms and Conditions of Offer:
1. _____
2. _____
3. _____
B. Proposed range of selling prices or rents _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—Nearby communities:
1. _____
2. _____
3. Name of community_____
Population _____
Distance over paved roads_____
Distance over unpaved roads_____
Total _____
B. Road system within the subdivision:
1. _____
2. _____
3. _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VIII. UTILITIES

A. Water:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
B. Electricity:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
C. Gas:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
D. Telephone:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
E. Sewage disposal:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. Supporting documentation:
a. _____
b. _____
F. Drainage and flood control:
1. _____
2. _____
3. _____
4. _____
5. Supporting documentation:
a. _____
b. _____
G. Television:
1. _____
2. _____

PART IX. RECREATIONAL AND COMMON FACILITIES

A. _____
1. _____
2. _____
3. _____
4. _____
B. _____

PART X. MUNICIPAL SERVICES

A. Fire protection:
1. _____
2. _____
3. _____
B. Police protection_____
C. Garbage and trash collection:
1. _____
2. _____
3. _____
D. Public schools
1. Elementary school:
a. _____
b. _____
c. _____
2. Junior high school:
a. _____
b. _____
c. _____
d. _____
3. High school:
a. _____
b. _____
c. _____
d. _____
E. Medical and dental facilities:
1. Hospital facilities:
a. _____
b. _____
c. _____
d. _____
e. _____
2. Physicians and dentists:
a. _____
b. _____
F. Public transportation:
1. _____
2. _____
3. _____
4. _____

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. _____
B. _____

PART XII. OCCUPANCY STATUS

A. _____
B. _____
C. _____

PART XIII. SHOPPING FACILITIES

A. _____
B. _____

PART XIV. FINANCIAL STATEMENT

A. _____
B. _____

PART XV. AFFIRMATION

AFFIRMATION

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this statement of record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

(Date)	(Signature)
(Corporate seal if applicable)	(Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (Title XIV of P.L. 90-448, 82 Stat. 590, enacted on Aug. 1, 1968) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

INSTRUCTIONS FOR COMPLETION OF STATEMENT OF RECORD

These instructions must be followed in completing the statement of record. All spaces in the specified format must be completed. The format must not be changed in any respect, except as follows:

a. Spaces provided in the format may be enlarged or extended for the purpose of providing a comprehensive explanation.

b. In addition to the information expressly required to be stated in the statement of record, there shall be added such further material information, if any, as may be necessary to make the required statements in the light of the circumstances under which they are made, not misleading.

c. If a filing is to be consolidated pursuant to § 1710.20(c), the present filing may incorporate by reference any of the material in the previous filing. This shall be accomplished by placing after the applicable Part or Subpart in the format the OILSR number of the previous filing and the appropriate Part, Subpart or exhibit and page number.

To facilitate proper filing, statements of record shall be filed on good quality, unglazed, white paper, approximately 8½ by 13 inches in size, with a 2-inch margin at the top and a 1½-inch margin on each side. They shall be in black ink in standard elite or pica type. They may be printed, lithographed, mimeographed, or typewritten; but the standard size of elite or pica type must be used. Deeds, title policies, subdivision maps or plats, and other supporting documents may be on different size paper but should be folded to the 8½- by 13-inch size. A copy of the property report in the form that it will be given to the purchaser must be attached to the statement of record.

Statements of record shall be filed in duplicate and at least one copy shall be signed.

In the upper right hand corner, the developer shall give his Employer's IRS number as well as that of the owner of the subdivision, if the developer is not the owner. The name at the heading of the statement of record shall be the common promotional name used for the subdivision. The name and address of the authorized agent shall be the name and address of the party designated by the developer to receive correspondence and to receive service of process or notice of any action taken by OILSR. In all filings, including filings by foreign developers, the authorized agent shall be a resident of the United States.

The supporting documents required by the various parts of these instructions shall be attached as exhibits at the back of the statement of record. Each exhibit shall be identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying thereon the applicable Part and Subpart by Roman numeral, letter and Arabic number. The pages of each exhibit shall be numbered beginning with the number one for the first page in each exhibit and numbering the remaining pages in the exhibit sequentially. If, at a later time, additional data is furnished to be incorporated into, or to amend, an exhibit, the pages of the additional data shall be numbered beginning with the number following the last page number in the exhibit and following sequentially therefrom. If the information in an exhibit is applicable to more than one part, the developer may incorporate that information by reference to the appropriate exhibit and to the applicable page or pages within that exhibit.

The developer shall mark the property report filed with the Office of Interstate Land Sales Registration with references to the appropriate information in the statement of record and in the exhibits attached thereto. If a statement in the property report is supported by both an item in the statement of record and in an exhibit, reference shall be made to both sources. This shall be accomplished by placing the appropriate part and subpart number or the appropriate exhibit number and the page number in the right margin immediately adjacent to the applicable statement in the property report.

If an item in the statement of record is supported by information in an exhibit, place the appropriate exhibit and page number in the right margin immediately adjacent to the item. Whenever the statement of record requires a summary or statement of terms or items, such summary or statement must be presented in a clear and concise manner.

Where the documentation required by the statement of record cannot be obtained, a letter stating the reasons therefore must be furnished by the developer, along with the best alternative assurance available.

The following instructions correspond to the Part and Subpart letters and numbers set forth in the statement of record format.

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information.

1. State whether the filing is an initial filing with the Office of Interstate Land Sales Registration on the subdivision or an additional offering of lots to be consolidated with a statement of record previously filed for lots offered under the same common promotional plan. If the filing is to be consolidated, identify the OILSR filing number assigned to the original statement of record.

2. Do you intend to make subsequent filings for additional lots within the subdivision?

3. Are you submitting documentation to support a claim of exemption? If so, see instruction in D.1 of this part.

B. General information.

1. Name the State, Commonwealth, territory, or possession of the United States or the country in which the subdivision is located.

2. Name the county or counties or other political subdivision or subdivisions within which the subdivision is located.

3. State the number of lots in this offering.

4. If more than one offering of lots in the subdivision has been made or will be made, state the number of lots to be offered in the entire subdivision. See instruction D.2 of this part.

5. State the number of acres included in this offering.

6. If more than one offering of lots in the subdivision has been made or will be made, state the number of acres owned, the number of acres under option or other similar arrangement for acquisition of title to the land and the total number of acres to be offered pursuant to the same common promotional plan.

C. Filings with State authorities.

1. If a statement of record or similar instrument for the subdivision has been filed in any State or States, list the State or States.

2. If any of the States listed in answer to fig. 1 above has not permitted the filing to become effective or has suspended the filing, give reasons cited by the State and also the developer's reasons, if different from those cited by the State.

D. Supporting documentation.

1. If you are requesting an Exemption Advisory Opinion pursuant to section 1710.15 of these rules and regulations, your request should be entitled "Request for Exemption" and include a statement of applicable facts and law. The statement shall include all information necessary for the consideration of the merits of the proposed offering in relation to the Interstate Land Sales Full Disclosure Act. Except for requests for exemption made prior to April 28, 1969, relating to sales programs that are in progress, the offering must be prospective; and the information submitted must affirmatively disclose that both the offering and the operations contemplated thereunder will not be inconsistent with the provisions of the Interstate Land Sales Full Disclosure Act.

2. If the present offering is a subdivision which is or will be offered with one or more additional subdivisions having recreational and/or other common facilities, submit the general or total plan. Include a map showing the total land owned or under option or other similar arrangement for acquisition of title to the land; and delineate thereon the land included in this offering.

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. List the name and address and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individual lot owners or lessees who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and the extent thereof, of each principal. For the purposes hereof, "principal" shall mean any person or entity having a 10 percent or more financial interest.

B. If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is other than an individual, name the type of legal entity and list the interest, and the extent thereof, of each principal. For the purposes hereof, principal shall mean any person or entity having a 10 percent or more financial interest.

C. If the developer is a corporation, submit a copy of the Articles of Incorporation, with all amendments thereto; and a list of the officers and directors of the corporation.

If the developer is a trust, submit copies of the instruments creating the trust.

If the developer is a partnership, unincorporated association, joint stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

If the holder of any ownership interest in the land being offered is a person or entity other than the developer, submit copies of the above documents for such holder. (For purposes of this Subpart C, it is not necessary to include the sales agent if the sales agent is a legal entity other than a holder of an ownership interest in the land.)

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Are any of the holders of an ownership interest in the land or the developer, or any principals in the holder or developer, directly or indirectly involved in any other subdivision or development which has been filed with the Office of Interstate Land Sales Registration? If so, identify by subdivision name, location, OILSR number or numbers, and date of filing. If not applicable, state "None."

B. Has a suspension order been issued with respect to any statement of record identified in Subpart A? If so, give reasons. (Do not include the suspension of a statement of record prior to its effective date or the suspension of an amendment prior to its effective date.)

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, SUBDIVISION MAP

A. Legal description. Include an adequate legal description acceptable in the political subdivision for conveyancing of the land included in this offering; and if additional offerings have been made or will be made pursuant to a common promotional plan, include a legal description of the total area offered or to be offered pursuant to the common promotional plan.

B. Topography and physical characteristics.

1. Describe the general topography and physical characteristics of the subdivision; for example, level, hilly, rocky, etc.; soil conditions, for example, loose sand, alkaline, etc.

2. State whether any of the lots or portion thereof, in the offering, are covered by water at any time of the year.

3. Is the property subject to a flood control easement?

4. What percentage of the land in the subdivision will require corrective work, other than fill, before construction of a one-story residential structure? If any, describe type of work and plans for correction; and state the estimated cost to buyer or lessee.

5. Will any unusual construction techniques be necessary to build on any part of land? If so, describe.

6. What percentage of the land will require fill before construction? If any, describe plans for fill, including composition, and estimated cost to lot buyer or lessee.

7. State elevation of the highest and lowest lots in the subdivision.

C. Climate and temperature.

1. Describe general weather conditions of the area and state whether the area is subject to sandstorms, windstorms, or any other unusual weather phenomena.

2. State temperature ranges for summer and winter, including high, low and mean.

D. Environmental factors.

1. Is the land subject to any unpleasant odors, noises, pollutants or other nuisances? If so, describe.

2. Do you know of any proposed plans, private or governmental, for construction of any facility which may create a nuisance or adversely affect the use of the land?

E. Subdivision map.

1. State whether a subdivision map has been filed with and accepted for recording by local authorities. If so, give recording data.

2. Has each lot in the subdivision been surveyed?

3. Has each individual lot been staked or marked so that the buyer can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

4. Will all streets shown on the tract map, if any, be public streets?

5. Has legal access been provided to each of the individual lots within the subdivision?

6. State minimum width of legal access to the lots.

F. Supporting documentation.

1. Copy of an accurate map prepared to scale showing the dimensions of the lots and their relation to existing streets and roads. (To comply with this requirement, supply a map or maps which have been submitted to local authorities, if available.) If the land has not been divided, include a map showing the proposed division, lot dimension and their relationship to existing streets and roads.

2. Copy of the current Geological Survey Topographic Map or Maps of the largest scale available from the U.S. Geological Survey, Washington, D.C., with an outline of the subdivision area clearly indicated thereon.

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS AND COVENANTS

A. State condition of the title to the land comprising the subdivision, including all encumbrances, easements, covenants, conditions, reservations, limitations or restrictions applicable thereto. This requirement may be met only by submission of title evidence in the form of (1) an original or copy of a fee or owners policy of title insurance, a guaranty or guarantee of title, or a certificate of title, or an interim title binder or commitment for title insurance, or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located; or (2) a legal opinion, stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

The title evidence shall be dated as of a date no earlier than 20 business days preceding the date of this filing and shall include:

1. A legal description of all of the property included in this offering together with a legal description of the property upon which there is or will be located any common areas or facilities which will be advertised as being available for the benefit or use of purchasers of lots. (Where the legal description does not specifically describe as individual parcels each of the lots included in this offering, an affirmative statement, to the effect that each of the lots included in the offering is encompassed by the description, is required.)

2. The name of the person(s) or other legal entity(ies) holding fee title to the property described.

3. The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

4. A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies), referred to in (2) or (3) above, including any encumbrances, easements, covenants, conditions, reservations, limitations, restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

5. Copies of all instruments in the public records specifically referred to in (4) above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstracter qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

Where the title evidence is dated earlier than 20 days prior to the date of filing, the requirement for a statement of the condition of title may be met by submitting that evidence together with an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing. The attorney's opinion shall be prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

B. Describe and furnish copies of any instrument, not of public record, known to the developer, which if recorded, would affect the condition of title. (Copies of instruments to individual lot owners or lessees who have purchased or leased lots from the developer need not be described or furnished.)

C. State the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property, or any portion thereof, described under A, above.

D. Describe and furnish copy(ies) of any trust deed(s), deed(s) in trust, escrow agreement(s) or other instrument(s) which purport to protect the purchaser in the event of default by the person or persons bound to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property or any portion thereof, described under A, above.

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summarize the terms and conditions of the offer and of the contract of sale or lease. The summary must include, but shall not be limited to:

1. A statement of the terms of release of lots from the blanket encumbrance, if the subdivision, or any portion thereof, is subject to a blanket encumbrance. If there is no provision for release, describe any legal steps taken to protect the purchaser or lessee in the event the obligor on the blanket encumbrance defaults.

2. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments or other payments received from buyers or lessees including any steps taken to protect the buyer or lessee in the event the seller or lessor does not perform his obligations under the contract.

3. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments and other payments received from buyers or lessees who default under the terms of the contract.

B. State the range of selling prices or rents for lots in the subdivision.

C. Supporting documentation.

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. (The contracts or agreements must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a property report prepared pursuant to the rules and regulations of the U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement; and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the property report at least 48 houps before signing the contract or agreement. [The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (i) has received the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (ii) acknowledges by his signature that he has made such inspection and has read and understood such report.])

2. A copy of the agreement, if not included in the sales contract, in which seller agrees with buyer to release lots from any blanket encumbrance.

3. Copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—nearby communities.

1. Describe present condition of access routes to the subdivision, including type and width of road surface and number of lanes.

2. Are any improvements proposed to access routes? If so, state who will bear the cost of the improvements and the estimated completion date. If the improvements are to be made by a local governmental authority, state the name of the authority, and the source of funds to complete the improvements. If lot owners will be subject to a special assessment or similar charge for such improvements which shall be a lien on the lots in the subdivision, so state.

3. List nearest large cities and the county seat, and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the geographical center of the subdivision is located more than 50 miles from a large city or the county seat, list also the nearest established community or communities.

B. Road system within the subdivision.

1. Describe the present condition of the road system within the subdivision, including the type and width of road surface, number of lanes and approximate dedicated width of roads. State whether all of the lots in the subdivision can be reached by conventional automobile.

2. State any proposed improvements to the road system within the subdivision, the percentage completed, and the estimated schedule for completion. State who will bear the cost of the improvements; and if any of the cost is to be borne by the purchaser, state the estimated cost to the purchaser.

3. State whether the roads within the subdivision have been dedicated to and accepted by a public authority responsible for maintenance. If not dedicated and accepted, state who will be responsible for maintenance. If the lot owner will be responsible for maintenance state the estimated cost to the purchaser.

C. Supporting documentation.

1. If the developer is to complete access routes, submit copies of contracts and copy of any bonds or escrow agreements to guarantee completion thereof. If the access routes are to be completed by the local government, a copy of a letter from the local authorities setting forth the plan for the completion of access routes and maintenance thereof.

2. Copies of contracts for the completion of the road system within the subdivision and copy of the bond or escrow agreements to assure completion thereof.

3. Copy of letter from local authority setting forth the plan for maintenance of the road system with the subdivision.

PART VIII. UTILITIES

A. Water.

1. State the availability of the water supply and whether the supply will be adequate to serve the anticipated population of the area.

2. Is the water supplied or to be supplied by a public or private utility company? If so, state the name and address and whether the

company is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. State whether the water lines will be extended to the individual lots. If they are to be extended, state the estimated schedule for the extension and the assurance of completion.

4. State estimated cost of installation or construction to be borne by the purchaser, if any.

5. Is the water supply to be obtained from private well? If so, indicate (1) probable depth and (2) results of test borings or other data establishing that a sufficient quantity of potable water is available to each buyer or lessee and (3) estimated total completion cost to buyer or lessee.

6. If water is provided by a supplier not regulated by a public body, state the rate schedule.

7. If privately supplied water or individual wells are to be the source of water for human use, has the cognizant State or county health authority issued a report on the quality of the water?

8. Supporting documentation.

a. Copy of a letter from water company stating that it will supply the water.

b. Copy of the contract for construction, if any, and the bond or escrow agreement to assure completion of the facility, if any.

c. If available, copy of engineer's report or geological report or any other data indicating the source and quantity of water.

d. Copy of letter or report from cognizant health officer on quality and purity of water.

B. Electricity.

1. State whether electricity is available and, if so, the name and address of the supplier from which it may be obtained.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the electrical facilities been extended to the individual lots?

4. If the electrical facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs, if any, will be borne by the purchaser?

5. State the assurance of completion if the electrical facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the electric company stating that it will supply the electricity.

b. If electricity is provided by a supplier not regulated by a public body state the rate schedule.

c. Copy of the contract for construction of electrical facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

C. Gas.

1. State the availability of gas including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have gas lines been extended to the individual lots?

4. If the gas facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated cost will be borne by the purchaser?

5. State the assurance of completion if the gas facilities are to be installed by the developer.

6. Supporting documentation.

a. Letter from the gas supplier stating that it will provide the service.

b. If gas is provided by a supplier not regulated by a public body, state rate schedule for the service.

c. Copy of the contract for construction of the gas facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

D. Telephone.

1. State the availability of telephone service including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the telephone facilities been extended to the individual lots?

4. If the telephone facilities have not been extended to the individual lots, what is the estimated schedule for installation and what cost will be borne by the purchaser?

5. State the assurance of completion of the telephone facilities if those facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the telephone company stating that the company will supply the service.

b. If telephone service is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for the construction of the telephone services, if any, and any bond or escrow arrangements to assure completion of the facilities.

E. Sewage disposal.

1. State whether sewers are available and, if so, the name and address of the entity responsible for installation and maintenance.

2. Is the entity a public or private utility company? State whether entity is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the sewage facilities been extended to the individual lots?

4. If the sewage facilities have not been extended to the individual lots, what is the estimated schedule for their installation and what estimated costs will be borne by the purchaser, including construction, installation and connection costs?

5. State the assurance of completion if the sewage facilities are to be installed by the developer.

6. If public sewers are not now installed and are not to be installed, state the alternate sewage disposal method to be used, such as septic tanks or cesspools.

7. If a public sewer is not or will not be installed, state the estimated cost of installing the alternate method of sewage disposal.

8. Will the local health authorities approve the use of an alternate method of sewage disposal? Has such approval been obtained?

9. If use of septic tanks is contemplated, state whether the land is suitable for the use of septic tanks; include in your statement the results of any percolation tests.

10. Supporting documentation.

a. Copy of the contract for construction of the sewage disposal facilities, if any, and any bond or escrow arrangements to assure the completion of the facilities.

b. Copy of a letter from local health authorities stating the methods of sewage disposal which will or will not be permitted.

F. Drainage and flood control.

1. State whether there has been or will be any drainage required to render any of the lots suitable for construction purposes. If so, list the lots, and state estimated cost to purchaser.

2. Have artificial drains, storm sewers, or flood control channels been installed?

3. If these facilities have not been installed, what is the estimated schedule for completion, if any, and what estimated costs or other assessments will the purchaser be expected to pay?

4. If the developer is to install these facilities state the assurance of completion.

5. Supporting documentation.

a. Copy of the contract for the construction of the artificial drains, storm sewers, or flood control channels, if any, and any bonds or escrow agreements to assure completion of the facilities.

b. If drainage is provided or to be provided by a public or private company, submit a letter from the company stating that it will provide the service.

G. Television.

1. Is television reception available to the lots within the subdivision without reception cost?

2. If not, state estimated cost to user.

Part IX. Recreational and Common Facilities

List any common or recreational facilities which have been or are to be installed for the beneficial use and enjoyment of the owners of lots in the subdivision which have not been discussed in the previous parts of the statement of record. Identify each facility and answer the following questions for each:

A. (Name of facility.)

1. If the facility has not been installed, what is the percentage of completion, the estimated schedule for completion and what estimated costs will the purchaser have to pay?

2. What provisions have been made for the maintenance and operation of the facility and what is the estimate of the assessments or other recurring charges to be paid by the purchaser?

3. Include a statement of the assurance of completion of the facility if the developer is responsible for construction.

4. Supporting documentation. Copy of the contract for construction of the facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

B. (Name of facility.)

Part X. Municipal Services

A. Fire protection.

1. State the availability of fire protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

2. State whether the service is provided by the municipality or by a volunteer organization.

3. State the distance in terms of road miles from the geographical center of the subdivision to the nearest fire station or substation.

B. Police protection.

State the availability of police protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

C. Garbage and trash collection.

1. State the availability of garbage and trash collection service and the name and address of the company which presently furnishes the service. If garbage and trash collection service is not presently available, state whether such service is proposed; and if it is, give the date on which it will become effective.

2. State whether the cost of the service is to be paid directly by the lot owner or whether the service is to be provided by a municipal agency.

3. If the cost of the service is to be paid directly by the lot owners, state the estimated monthly cost per lot.

D. Public schools.

1. Elementary school.

a. State name and address of the nearest elementary school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

2. Junior high school.

a. State name and address of the nearest junior high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

3. High school.

a. State name and address of the nearest high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

E. Medical and dental facilities.

1. Hospital facilities.

a. State the availability of hospital facilities and the name and address of the particular hospitals available to residents of the subdivision.

b. State whether the hospital is publicly or privately owned and whether the services are general or specialized.

c. State the bed capacity of the hospital.

d. State the distance in terms of road miles from the geographical center of the subdivision to the nearest general hospital.

e. State the availability of ambulance service and specify whether this service is furnished by the hospital(s) or by a volunteer organization.

2. Physicians and dentists.

a. State the distance in terms of road miles from the geographical center of the subdivision to physicians' and dentists' offices.

b. State whether or not public transportation is available from the subdivision to the general physicians' and densists' offices.

F. Public transportation.

1. State whether public transportation is available from the subdivision to nearby municipalities including the frequency, type and estimated cost of service.

2. If no such transportation is available, state whether it will be available and give estimated date of availability.

3. Include in your statement the proposed frequency of service and estimated cost.

4. If public transportation is not presently available from the subdivision, state the distance in road miles to nearest public transportation.

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. Is the buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision before taking title or signing the lease? If so, state the amount and to whom they must be paid.

B. Is the buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision after taking title? If so, state the amount and to whom they must be paid.

PART XII. OCCUPANCY STATUS

A. State the approximate number of dwellings in the subdivision at the time of filing.

B. State the number of dwellings which are proposed and the estimated completion date of those dwellings.

C. State the approximate number of dwellings presently occupied, if any.

PART XIII. SHOPPING FACILITIES

A. State what shopping facilities are available to the subdivision. Include available types of stores and consumer services and the distance in terms of road miles from the geographical center of the subdivision to the facilities.

B. State whether public transportation is available to the facility, the frequency of the service and the estimated cost.

PART XIV. FINANCIAL STATEMENT

A. Submit a copy of the latest financial statement of the developer. Such financial statement shall not be more than 12 months old.

B. State the means by which the developer will finance the obligations undertaken or proposed and as set forth in this statement of record. A statement of past performance in completing obligations undertaken by the developer may be included.

PART XV. AFFIRMATION

§ 1710.110 Property report and lease addendum.

The property report and if applicable, the lease addendum to be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, as a part of the statement of record, and as provided in § 1710.20 shall be prepared in accordance with the instructions and format as follows:

INSTRUCTIONS FOR COMPLETING PROPERTY REPORT AND LEASE ADDENDUM

These instructions must be followed in completing the property report and lease addendum. All spaces must be completed. This format may not be changed in any respect, except as follows:

a. All references to leases, lessees and rents should be deleted if no leasing is proposed and the offering is exclusively for sales. In this event, the lease addendum may be disregarded.

b. Spaces provided in the format may be enlarged or extended for the purpose of providing a summary explanation of the subject under discussion but may not be used to insert promotional or advertising matter designed to counteract facts adverse to the interests of the buyer or lessee.

c. If this filing is made pursuant to the provisions of Section 1710.40 of these regulations, then the following paragraph shall be added as a new paragraph immediately after the fourth paragraph of the notice and disclaimer:

"Although a statement of record has been filed with the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, the filing has not been examined or verified."

d. Questions on the property report must be answered in concise, plain language but should disclose all pertinent facts.

e. The property report shall contain information in addition to that elicited by the questions appearing therein if at any time it appears to the Secretary that the inclusion of additional information is necessary or appropriate in the public interest, and the Secretary so advises the developer.

The instructions below correspond to the numbered paragraph in the property report:

Paragraph 3. List the nearest large city or county seat and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the subdivision is located more than 50 miles from either, list also the nearest established community or communities.

Paragraph 4. If the buyer or lessee is exposed to the risk of losing his investment in the event of the developer's failure or bankruptcy, this fact must be made unmistakably clear in this paragraph. Explanations should include any measures designed to protect the buyer's interests, and they must disclose any circumstances under which the buyer would lose his investment either because of his own default or the developer's inability to perform under the sales contract. If there is any prohibition or penalty against the buyer recording the sales contract or lease, so state. A statement can be included by the developer describing his past performance in conveying free and clear titles to buyers upon their payment of the full purchase price.

Paragraph 5. Whether the offering includes only cash sales, or installment contracts and leases, explain fully how the buyer or lessee is to be protected against loss of his investment. If a blanket mortgage or other lien is foreclosed against the developer, will the holder of such mortgage or other lien be obligated to perform the agreement with the purchaser or lessee? If not, are the buyer's or lessee's payments and investments in improving the property protected through an escrow or by other means? The buyer or lessee must be told of the possible consequences in the explanation of the answer to this question.

Paragraph 7. Buyers and lessees must be told when their obligation to pay taxes, special assessments and similar charges begins. They should also be made aware of the approximate amount of buyer's or lessee's annual payments, but the items for indicating the amount of taxes and special assessments may be answered by the statement "Consult local taxing authorities."

Paragraph 8(b). Include all limitations upon the buyer's use or enjoyment of the property, including mineral rights reservations.

Paragraph 10. Describe arrangements made (contracts supported by completion bonds or escrows, for example) designed to assure completion of the improvements. If no arrangements have been made, state "None." If it later becomes evident that an improvement will not be completed on or before the specified date, amendments of the statement of record and property report are required. If no sewage disposal arrangements are contemplated, state if land is suitable for the use of septic tanks, describing the results of any percolation tests. State estimated cost to buyer for septic tank. If water is to be provided by private well, indicate (1) estimated completion cost and (2) any other data establishing that a sufficient quantity of potable water is available to each buyer or lessee. If water is to be provided by a private utility, describe assurances for continuous service at reasonable rates.

Paragraph 14. The number of homes occupied can be amended to reflect periodic increases subsequent to the initial filing date.

Paragraph 15. Include statement as to nature of terrain (flat, rolling, hilly, mountainous, etc.), type of soil (sandy, swampy, rocky, etc.) and vegetation (cactus, trees, grass, etc.).

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This report is not a recommendation or endorsement of the offering herein by the Office of Interstate Land Sales Registration, nor has that office made an inspection of the property nor passed upon the accuracy or

adequacy of this report or any promotional or advertising materials used by the seller.

It is in the interest of the buyer or lessee to inspect the property and carefully read all sale or lease documents.

Prospective buyers and lessees are notified that unless they have received this property report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from the signing of his contract, if he has received the property report less than 48 hours prior to signing such contract.

1. Name(s) of developer _____
Address _____

2. Name of subdivision _____
Location _____ County, State of _____

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

Name of community	Population	Distance over paved roads	Unpaved roads	Total
a.				
b.				
c.				
d.				
e.				

4. If periodic payments are to be made by a buyer (as in the case of installment sales contracts) complete all items under this paragraph 4. If not, enter "Not Applicable."

a. Will the sales contract be recordable? Yes or No?

b. In the absence of recording, could the developer's creditors or others acquire title to the property free of any obligation to deliver a deed to the buyer when final payment has been made under the sales contract? Yes or No? If yes, explain.

c. What provision, if any, has been made for refunds if buyer defaults?

d. State prepayment penalties or privileges, if any.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the developer defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a buyer of individual lots when the full purchase price is paid.

	(Type of lien)	(Effect on buyers if developer defaults)
a.	_____	_____
b.	_____	_____
c.	_____	_____

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the property report.

7. Is buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If either answer is yes, complete the schedule below:

	Approximate amount of buyer's or lessee's annual payments
Taxes	_____
Special assessments	_____
Payments to property owner's association	_____
Other	_____
Specify	_____

8. (a) Will buyer's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?

(b) Except for those property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, will buyer receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

(c) Buyer should determine permissible uses of the property from local zoning authorities.

9. (a) List all recreational facilities currently available (e.g., television, sports, beaches, etc.) State any costs or assessments to buyer or lessee.

(b) If facilities are proposed or partly completed, state promised completion date, provisions to insure completion, and all estimated cost or assessments to buyer or lessee.

10. State whether the following are now available in the subdivision: Garbage and trash collection, sewage disposal, paved streets, electricity, gas, water, telephone. If yes, state any estimated costs to buyer or lessee. If proposed or partly completed, state promised completion date, provisions to insure completion and give estimate of all costs including maintenance costs to buyer or lessee.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs buyer would incur.

13. State whether any of the following are currently available in the subdivision: Schools; medical facilities (hospitals, doctors, dentists); shopping facilities. List availability of public transportation to, and distance of facility from geographical center of subdivision.

If facility is proposed or partly completed, state promised completion date and any provisions to insure completion.

14. Approximately how many homes were occupied as of _____ (insert date of filing)?

15. State elevation of the highest and lowest lots in the subdivision and briefly describe topography and physical characteristics of the property.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs buyer would incur.

17. Are all lots and common facilities legally accessible by public road or street? Yes or No? If not, explain.

18. Has land in the subdivision been platted of record? Yes or No? If not, has it been surveyed? Yes or No? If not, state estimated cost to buyer to obtain a survey.

19. Are lots staked or marked so that buyer can locate his lot(s)? Yes or No?

LEASE ADDENDUM

1. State term of lease.

2. Will the lease be recordable? Yes or No?

3. Is there any prohibition or penalty against the lessee for recording the lease? Yes or No? If yes, explain.

4. Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? Yes or No? Explain.

5. Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.

6. Are there any provisions in lease prohibiting assignment and/or subletting? Yes or No? If yes, describe.

7. Summarize termination provisions in the lease.

8. Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold? Yes or No?

9. Will lessee be permitted to remove improvement when lease expires?

§ 1710.115 State property report disclaimer.

If the developer is filing with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the following statement must be delivered to each purchaser simultaneously with the delivery of the State property report:

STATE PROPERTY REPORT DISCLAIMER

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This report is not a recommendation or endorsement of the offerings herein by the Office of Interstate Land Sales Registration, nor has that Office made an inspection of the property nor passed upon the accuracy or adequacy of this report or of any promotional or advertising materials used by the seller. Information contained herein has been filed with the State of _____ and the Office of Interstate Land Sales Registration.

It is in the interest of the buyer to inspect the lot and to read all contract documents before signing the contract to purchase or lease.

Prospective buyers and lessees are notified that unless they have received this property report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from signing his contract if he has received the property report less than 48 hours prior to signing such contract.

Although a statement of record has been filed with the Office of Interstate Land Sales Registration, the filing has not been examined or verified.

§ 1710.120 Statement of record—State filing.

If the developer is filing pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

SECTION I. State Filings—The following information shall preface the State statement of record or similar instrument and shall be done in accordance with the general instructions set forth in § 1710.105 for Part I, Administrative Information, and Part III, Identity of Interest in More than one Filing, and shall be set forth in the following format. Statements of record shall be filed in duplicate and at least one copy shall be signed.

Employer's IRS number _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
State of filing: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

ADMINISTRATIVE INFORMATION

A. Identification and filing information:

1. _____
2. _____
3. _____

B. General information:

1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned _____
Acres under option or other similar arrangement _____
Total _____

C. Filings with State authorities:

1. _____
2. _____

IDENTITY OF INTEREST IN MORE THAN ONE FILING

Subdivision _____
Location _____
OILSR number _____
Date of filing _____

SEC. II. A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. If the State does not require the information and documentation required in Part II, C. of § 1710.105, submit such information and documentation.

C. The contract of sale or lease which will be executed by prospective purchasers or lessees must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a property report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement, and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the property report at least 48 hours before signing the contract or agreement. (The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (1) has received the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (2) acknowledges by his signature that he has made such inspection and has read and understood such report.)

D. Consolidation—Incorporation by Reference: If a filing is for an offering of lots to be sold pursuant to a common promotional plan and there has been an earlier filing with the OILSR for lots offered under the same promotional plan, the developer may incorporate by reference the information included in the earlier filing by identifying the earlier filing by OILSR filing number and reference to the appropriate sections, parts or pages thereof. This may be done for the purpose of meeting the requirements of the rules and regulations although the State law does not permit such consolidation.

The material incorporated by reference must be an exact copy of all material filed with the State.

SEC. III. *Affirmation.* I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this statement of record and any supplement thereto, together with any documents submitted herewith, are full, true, complete and correct;

That I have complied with the land development and disclosure requirements of the State of _____ (state of filing);

That the material submitted is a true and accurate copy of the material filed with the State of _____; and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

(Date) (Signature)

(Corporate seal if applicable) (Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (Title XIV of Public Law 90-448, 82 Stat. 590, enacted on Aug. 1, 1968) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * * shall upon conviction be fined not more than $5,000 or imprisoned not more than five years, or both."

§ 1710.125 Partial statement of record—request for exemption.

Requests for an exemption advisory opinion, pursuant to § 1710.15(b) shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The developer may file Part I, Administrative Information, in the form set forth in § 1710.105 and the affirmation and agreement as set forth below as a partial statement of record.

The filing of this information does not preclude a developer from filing a complete statement of record. If the developer files the material necessary to complete the statement of record, the date of filing shall be the date the complete statement of record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial statement of record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That the fee accompanying this application are in the amount required by the regulations of the Office of Interstate Land Sales Registration;

That I agree that this filing is a partial statement of record and that the receipt of this filing by the Secretary shall not be the date of filing of a statement of record for the purpose of determining the effective date thereof; and

That if the Secretary advises that the offering is not exempt, I agree to file the remaining portions of the statement of record as set forth in § 1710.105 of these rules and regulations prior to any offering and that the date of the receipt of the complete statement of record by the Secretary shall be the date of filing for the purpose of determining the effective date of the statement of record.

(Date) (Signature)

(Corporate seal if applicable) (Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (Title XIV of Public Law 90-448, 82 Stat. 590, enacted on Aug. 1, 1968) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

Effective date. The regulations in this part are effective on April 28, 1969. Filings and requests for exemption advisory opinions will be accepted upon publication of these regulations in the FEDERAL REGISTER.

Dated: March 25, 1969.

WILLIAM B. ROSS,
Acting Assistant Secretary for Mortgage Credit.

[F.R. Doc. 69-3749; Filed, Mar. 28, 1969; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 9-4.51—Research Agreements and Contracts With Educational Institutions

PART 9-7—CONTRACT CLAUSES

Subpart 9-7.50—Use of Standard Clauses

PART 9-16—PROCUREMENT FORMS

Subpart 9-16.50—Contract Outlines

MISCELLANEOUS AMENDMENTS

The principal revisions in AECPR 9-4.51 and 9-16.5002-8 are to provide for a change in the Special Research Support Agreement to remove the requirement that the contract be financially "closed out" after each annual period of performance. The revisions provide that AEC support and the Contractor's charges to the AEC will be accumulated over the total life of the contract, with a financial adjustment made at the termination or expiration of the project. AEC funds to support a project are to continue to be obligated on a periodic (generally annual) basis, and with each renewal the amount of new AEC support would be added to the previous

Support Ceiling. The Contractor's charges to the AEC (Support Cost) are to continue to be reported for each pertinent period of the contract specified in Appendix A (generally an annual period), and the Support Cost determined for each such period will be accumulated for all periods of contract performance. The monetary obligation of the AEC will not exceed the accumulated Support Ceiling, or the Cumulative Support Cost, whichever is less. The Contractor's charges to the AEC will be limited by the cumulative Support Ceiling, and not by the amount of new support that may be provided in a given contract year.

The revision to AECPR 9-4.5107-2(c) provides additional guidance on the use of proportionate cost-sharing, including guidance as to when proportionate cost-sharing should not be used because it could be detrimental to the interests of AEC and the contractor. When a contract provides for proportionate cost-sharing, the AEC will pay only the specified percentage of the actual cost of items under Article A-II(a) incurred during the pertinent contract period specified in Appendix A, subject to the other limitations and provisions of the contract.

In conjunction with the change to a cumulative Support Ceiling and Support Cost approach, an additional approval requirement has been added to provide that the Contractor must obtain AEC's approval to incur costs during the pertinent contract period stated in Appendix A, for items set forth in Article A-II(a), in excess of 110 percent of the total estimated cost specified in Article A-III for the specified contract period.

There are several other changes that are minor or editorial.

1. Section 9-4.5107-2, *Special research support agreements*, is revised as follows:

§ 9-4.5107-2 Special research support agreements.

(a) The special research support agreement, outlined in AECPR 9-16.5002-8, is generally used for basic research with educational institutions when the annual AEC support under the agreement does not exceed $250,000. It provides that AEC's monetary obligation will be a specified amount, which is referred to as the Support Ceiling, or a lower adjusted amount (referred to as the Cumulative Support Cost) if actual costs chargeable to the AEC during the total period of the contract are less than expected. The ceiling on AEC's monetary support will be determined and established as a Support Ceiling at the outset of the initial contract period, generally an annual period; the initial Support Ceiling will be the amount of AEC support made available in connection with the initial contract period. In the event the AEC and the Contractor agree to extend the contract for an additional period or periods of performance, the ceiling on AEC's monetary support (Support Ceiling) would be increased to reflect any increased support by reason of the extended period or periods. The costs chargeable to the AEC (Support Cost) will be reported for each pertinent period of the contract specified in Appendix A (generally an annual period) in accordance with paragraphs (b) and (c) of this section, and the Support Cost determined for each such contract period will be accumulated for all periods of contract performance, as will the Support Ceiling. The monetary obligation of the AEC to the Contractor will not exceed the Cumulative Support Cost or the accumulated Support Ceiling, whichever is less. Upon termination, or expiration of the total period of performance, the Contractor will refund to the AEC, or make such other disposition as the AEC may direct, any funds advanced by the AEC to the Contractor in excess of the Cumulative Support Cost incurred under the contract. Payment shall be made in consideration for the Contractor's performance of research activities described in the contract and in accordance with the provisions of the contract. The Contractor shall have the right to discontinue performance of research under the contract, upon written notice to the AEC, at any time when or after the total costs chargeable to the AEC equal or exceed the Support Ceiling. Certain deviations in performance and other actions require AEC approval as stated in AECPR 9-4.5112-5; among other approval requirements, the Contractor must obtain AEC's approval to incur costs for items set forth in Article A-II(a), during the pertinent contract period stated in Appendix A, in excess of 110 percent of the total estimated cost specified in Article A-III for the specified contract period. In those cases in which there is to be proportionate sharing of costs, the percent of the cost to be borne by the AEC will be set forth in Article A-III of the contract (see paragraph (c) of this section).

(b) The Contractor will be required to furnish a certified statement (within 3 months after the expiration of the pertinent contract period set forth in Appendix A—and at the termination or expiration of the contract) signed by the principal investigator and an official of the institution showing the Support Cost (see definition of "Support Cost" in AECPR 9-16.5002-8, Article B-XXVII) of the project during the prior contract period. The statement should follow the format of Appendix C of the contract and provide a basis for comparison with the approved budget as provided in Appendix A of the contract.

(c) It is expected that in many cases the Contractor will propose to contribute to the cost of the research work. Such proposed contribution shall be set forth in Appendix A of the contract, either (1) as items under (b) or (c) of Article A-II which will be contributed solely by the Contractor without charge to the AEC, or (2) as a proportionate cost-sharing agreement in Article A-III which will provide that the Contractor will charge AEC only a specified percentage of the actual cost incurred for items under (a) of Article A-II. Proposed Contractor contributions should ordinarily be listed under (b)(1) of Article A-II when (1) the contribution is the principal investigator or other senior personnel who are likely to be involved in the research work to the same extent whether their cost is included in or excluded from proportionate cost-sharing, (2) the proposed contribution to the work is being paid for by a third party, e.g., personnel or equipment the cost of which is being reimbursed under another contract or grant from public or private sources, and (3) the proposed contribution does not involve any cash expenditure by the Contractor. Only those items, the cost of which are to be charged to the AEC or proportionately shared by the parties, should be listed under Article A-II(a). Proportionate sharing of the cost of items under Article A-II(a) should be provided for only when the Contractor agrees to pay a specified percentage of the cost of all such items, and when such sharing is expected to be of financial benefit to the AEC. In those cases in which there is to be proportionate cost-sharing, the Contractor should generally be encouraged to continue the same sharing ratio throughout the life of the contract so as to provide for ease of administration and to avoid difficulties in determining proper charges to the AEC. When the contract provides for proportionate cost-sharing, it should be understood that the AEC will pay only the specified percentage of the actual cost of items under Article A-II(a) incurred during the pertinent contract period specified in Appendix A, up to a maximum of 110 percent of the estimated Support Cost set forth in Article A-III for the pertinent contract period unless otherwise specifically approved by the AEC, and subject to the Support Ceiling set forth in Article III.

(d) If the Contractor proposes to contribute the cost of the principal investigator(s) on the project and requests that the contribution be excluded from A-II(b), the contributed time or effort should be shown in A-II(c). In any event, Article A-I should include a statement regarding the approximate percentage of time or effort that the principal investigator(s) expects to devote to the contract work. If the principal investigator(s) is included under A-II(c), the Contractor would not be required to maintain records regarding the amount of effort contributed by the principal investigator, and the Contractor would not be required to certify in accordance with Appendix C of the contract regarding the amount of effort contributed by the principal investigator. The principal investigator may be included in Article A-II(a) for purposes of obtaining AEC reimbursement of his costs during the summer months, and excluded from Article A-II(a) for the academic year if the Contractor proposes to contribute the costs for that period. The contract generally will not require the Contractor's commitment that any particular amount of time or effort by the principal investigator(s) or other personnel will be devoted to the work under the contract. In the event a proposed Contractor contribution is included in Article A-II(b)(1), the contract should reflect the nature and extent of the Contractor's intent to contribute the item, and the Contractor

shall maintain records adequate to permit the AEC to determine the extent of the contribution. The Contractor shall certify, in accordance with Appendix C of the contract, the extent to which the item or items under Article A–II(b)(1) have been contributed. Government-owned property to be procured, fabricated, or furnished under Article V or Article B–IX of the contract and other Government-furnished equipment, supplies, materials, or services should be excluded from Article A–II(a) and listed under Article A–II(b)(2). If items of Government-owned equipment are to be furnished to a Contractor by the Government, with title to be vested in the Contractor, the Consideration article (Article III) should be modified to provide that the items of equipment are being provided in consideration of the Contractor providing a specified contribution to the cost of the work, and the specified Contractor's contribution should be listed under A–II(b)(1).

(e) If the special research support agreement outlined in AECPR 9–16.5002–8 is to be used for not-for-profit organizations other than educational institutions, Article B–XXVII, Determination of Support Cost, should be revised to provide that the AEC's commercial cost principles (AECPR 9–15.50) will be used in determining actual cost, or the contract provisions may be revised at the direction of the cognizant AEC Headquarters Division or Office to provide for a lump-sum payment to the Contractor in consideration for its performance of particular research at a specified level of effort. The special research support agreement outlined in AECPR 9–16.5002–8 may also be used for supporting research at educational institutions in foreign countries; however, at the discretion of the cognizant AEC Headquarters Division or Office or Field Office, the outline of AECPR 9–16.5002–8 may be revised to provide for a lump-sum payment to the foreign institution in consideration for its performance of particular research at a specified level of effort, and to limit approval requirements to those considered consistent with the nature of the support to the foreign institution. All such agreements with foreign institutions should provide that any unused AEC funds available to the foreign institution at the end of the contract term shall be used in a renewal period of the contract, returned to the AEC, or otherwise disposed of, in accordance with AEC instructions.

2. Section 9–4.5111, *Extension of contracts*, is revised to read as follows:

§ 9–4.5111 Extension of contracts.

§ 9–4.5111–1 Renewal of proposals.

(a) Where additional time, beyond the current expiration period, is required to continue or complete the work, the Contractor should submit six copies of a renewal proposal to the AEC Field Office that has administrative jurisdiction of the existing contract, not later than 3 months nor earlier than 6 months before the date of expiration of the contract.

(b) The renewal proposal should outline and justify a proposed program and budget for the succeeding year, showing in detail the estimated cost of the project, together with an indication of the items for which the Contractor is requesting AEC reimbursement or proportionate cost-sharing, the percentage of any such costs to be shared by the Contractor, and any items to be contributed solely by the Contractor. It should include the same type of information as that required for initial proposals or reference this information to the extent contained in earlier proposals. Any contemplated change in program or scope for the ensuing period should be justified and explained clearly, and the cost estimates and other items should be based upon past experience. Any deviation from the contract during the current period requiring AEC approval as provided for in the contract, which has not received such AEC approval, should be explained in detail, and the AEC's right to approve or disapprove shall be the same as for a request timely made by the Contractor.

(c) The renewal proposal should include a financial statement of the work under the current contract, including:

(1) Total project costs for the current period to date, indicating the amount chargeable to the AEC;

(2) An estimate of the total costs to be incurred during the remainder of the current contract period, indicating the amount chargeable to the AEC; and

(3) Under special research support agreements, the anticipated difference, if any, between the accumulated Support Cost at the end of the current contract period and the cumulative AEC Support Ceiling.

§ 9–4.5111–2 Evaluation of requests for renewals.

(a) Requests for renewals are evaluated by the appropriate AEC Headquarters Program Division in the light of:

(1) Progress report submitted by the Contractor;

(2) Research results published in scientific media;

(3) Field visits to the research site by technical personnel;

(4) Contractor's performance; and

(5) Availability of funds and relative importance of projects in relation to other proposed research.

(b) Requests for renewals generally follow the same process of review and evaluation of technical aspects and funding, preparation, and execution of the contract, and administration as a new project, although less use would normally be made of outside consultants. Contracts authorized by AEC Headquarters Program Divisions shall not be extended for a new term or on an interim basis or modified in scope without specific prior authorization from the appropriate AEC Headquarters Program Division, except as provided in AECPR 9–4.5111–3.

§ 9–4.5111–3 Authorization to renew.

(a) When a determination has been made to extend a contract, the sponsoring AEC Headquarters Program Division shall provide the appropriate AEC Field Office with an authorizing directive early enough (usually about 4 weeks in advance of expiration) to permit an orderly completion of the extension agreement before the expiration date. The authorizing directive should include generally the same type of information provided in the authorization of a new contract, including pertinent information concerning any changes in scope of work, level of funding, scheduled dates for completion of certain phases of work, target dates for submission of reports, etc.

(b) An authorization to renew a special research support agreement shall also state the estimated total cost of items to be included under Article A–II (a) of Appendix A for the renewal period, the percentage of such costs to be reimbursed by the AEC, and the amount of new funds authorized to increase the AEC Support Ceiling.

(c) The AEC Field Office that has administrative jurisdiction of an existing contract, may extend the term of an existing contract without authorization from the cognizant Headquarters Program Division, provided that:

(1) Any such extension does not provide for an increase in the AEC's monetary obligation under the contract;

(2) That the scope of work is not revised by such extension;

(3) That such extension is necessary to permit completion of the scope of work authorized by Headquarters, including preparation of required reports; and

(4) That any such extension will not be for a period in excess of 90 days.

§ 9–4.5112–1 [Amended]

3. Section 9–4.5112–1, *Responsibilities of AEC Headquarters Program Divisions*, is revised by deleting and reserving (b)(3).

§ 9–4.5112–2 [Amended]

4. Section 9–4.5112–2, *Responsibilities of AEC Field Offices*, is revised by deleting and reserving (c), (d)(2), and (d)(3).

5. Section 9–4.5112–3, *Payments under special research support agreements*, is revised to read as follows:

§ 9–4.5112–3 Payments under special research support agreements.

(a) Payments will be made to contractors under a special research support agreement in accordance with the contract provisions (see Article B–XI of AECPR 9–16.5002–8). The letter of credit procedure, as provided for by Treasury Department Circular No. 1075, Revised, of February 13, 1967, will generally be used when the total of AEC contracts with advance financing at an institution provide for a continuing annual level of support of $250,000 or more. When the total AEC contracts with advance financing provide for an annual

level of AEC support of less than $250,000, AEC will generally make advance payments covering the first 90 percent of the amount of the estimated AEC Support Cost as set forth in Article A–III of the contract. The Field Office may revise Article B–XI of AECPR 9–16.5002–8, regarding the timing and amounts of advance payments, in accordance with the following provisions. The advance payments may be made at times and in amounts determined by the Field Office, provided that no single payment will exceed 45 percent of the estimated AEC Support Cost for the pertinent contract period except on the basis of a request from the Contractor evidencing that a specified amount is required in connection with expenditures or commitments made under the contract. The timing and amounts of payments should be determined on the basis of limiting the amount of advances to the extent feasible consistent with effective and efficient contract administration and performance of the research, for the purpose of slowing the rate of cash withdrawals from the Treasury and thereby decreasing the financing costs to the Federal Government. In determining the timing and amounts of payments, consideration should be given to funds already available to the Contractor, the expected expenditures under the contract, any information from the Contractor regarding the need for funds, and the administrative cost of additional payments.

(b) The final payment under both of the procedures referred to in paragraph (a) of this section shall be made on the basis of determinations by the contracting officer that: (1) the required reports are satisfactory, (2) that the research was performed in accordance with the provisions of the contract, and (3) that an additional payment is required to reimburse for all costs chargeable to the AEC. If necessary in making the determinations, the contracting officer should obtain advice from the technical personnel of the AEC Headquarters Program Division based upon their visits to and other contacts with the research project during the contract period as well as their technical review of the report. It is expected that the annual progress and final reports and the Contractor's certified cost statements will provide an adequate basis for making the determinations required by subparagraphs (2) and (3) of this paragraph. If the determinations cannot be made on the basis of a consideration of the reports, visits to and other contacts with the research project during the contract period, and the Contractor's certified statements, the contracting officer may invoke the audit provision of the contract. In the event the contracting officer determines that the Contractor has not satisfied the contractual undertakings, appropriate steps shall be taken to protect the Government's interests.

6. Section 9–4.5112–5, *AEC approval of deviations in performance and other specified actions*, is revised by modifying paragraph (a) to read as follows:

§ 9–4.5112–5 AEC approval of deviations in performance and other specified actions.

(a) Contractors will be asked to inform the cognizant AEC Field Office as soon as possible of such contemplated deviations and other actions which require AEC approval. Specific deviations and actions which will require such AEC approval under special research support agreements include the following:

(1) A change of the principal investigator, or continuation of the research work without direction by an approved principal investigator. The principal investigator may increase or decrease the amount of effort which he devotes to the project without obtaining Commission approval; however, the principal investigator shall consult with the appropriate AEC Headquarters program representative if he plans to, or becomes aware that he will, devote substantially less effort to the work than anticipated in Article A–I. The purpose of such consultation will be to determine what effect, if any, the anticipated change will have on the research work;

(2) Acquisition of:

(i) An item of equipment which is not specifically itemized in the contract, if the acquisition cost is in excess of $1,000 or 2 percent of the estimated cost specified in Article A–III of the contract, whichever is greater, unless such equipment is merely a different model of an item listed in the contract, or

(ii) Any equipment which is not specifically itemized in the contract, if the cost of acquisition will cause the total equipment dollar level shown in Article A–II(a) of Appendix A of the contract to be increased by $500 or more. (If plant and capital equipment funds are provided for the acquisition of equipment, with title to be vested in the Government, the total cost of such equipment acquisitions shall not exceed the amount budgeted for such equipment unless prior AEC approval has been obtained).

(3) Purchase of any general-purpose equipment, such as office furniture, air conditioning, etc., not specifically provided for in Appendix A of the contract, except that purchased without cost to the AEC;

(4) Incurring costs for items set forth in Article A–II(a), during the pertinent contract period stated in Appendix A, in excess of 110 percent of the estimated cost specified in Article A–III. Charges to the AEC for any such costs incurred with the approval of the AEC shall also be subject to the limitations of Article III;

(5) Any proposed foreign travel; and

(6) Such other items as in the judgment of the Program Division or the Field Office, in specific cases need to be separately identified in the contract. (When plant and capital equipment funds are provided for the acquisition of Government property, the Headquarters Program Divisions may require, in specific cases, that such funds shall be used only for acquiring the equipment designated in the contract unless prior AEC approval has been obtained.)

* * * * *

7. In § 9–7.5006–11, *Allowable costs (research and development contracts with educational institutions)*, subparagraph (a)(1) and the note following are revised to read as follow:

§ 9–7.5006–11 Allowable costs (research and development contracts with educational institutions).

(a) * * *

(1) Subpart 1–15.3 of the Federal Procurement Regulations, as that text is amended by the amendments to Bureau of the Budget Circular No. A–21 as of the date of commencement of the pertinent contract period set forth in Appendix A; and

NOTE: Subpart 1–15.3 of the FPR, along with the latest amendments to Bureau of the Budget Circular No. A–21, as of the date of execution of the contract, may be appended to the contract.

* * * * *

8. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Article III—CONSIDERATION, is revised.

9. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Article V—GOVERNMENT PROPERTY, is revised.

10. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Appendix A is revised.

11. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Article B–XI—PAYMENTS, is revised.

12. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Article B–XXVII—DETERMINATION OF TOTAL COSTS, is revised.

13. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Article B–XXVIII—ADDITIONAL APPROVALS, is revised by modifying paragraph (a).

14. In § 9–16.5002–8, *Outline of special research support agreement for educational institutions*, Appendix C is revised.

The affected portions of § 9–16.5002–8 read as follows:

§ 9–16.3002–8 Outline of special research support agreement for educational institutions.

* * * * *

ARTICLE III—CONSIDERATION

(a) In full consideration of the Contractor's performance hereunder, the Commission shall furnish the equipment, supplies, materials, and services, if any, listed in Article A–II(b)(2) and pay the Contractor the sum of $_____, hereinafter called the "Support Ceiling" which sum shall be subject to adjustment as hereinafter provided.

(b) Payments to the Contractor shall equal the "Cumulative Support Cost" of performance of this contract, as the term "Cumulative Support Cost" is defined in Ar-

ticle B–XXVII[1]: *Provided, however,* And notwithstanding any other provision of this contract, that the Government's monetary liability under this contract shall not exceed the Support Ceiling specified in (a) above. The Commission shall not pay more than the Support Ceiling or an amount equal to the Cumulative Support Cost, whichever is less. The Contractor shall be obligated to perform under this contract throughout the agreed-upon period of performance, and to bear all costs which the Commission has not agreed to pay: *Provided, however,* That the Contractor shall have the right to cease to perform the research provided for in this contract, upon written notice to the Commission to that effect, at any time when or after the Cumulative Support Cost equals or exceeds the Support Ceiling.

(c) The Support Ceiling specified in (a) above may be revised as the parties may mutually agree in writing. In the event the stated period of contract performance is extended, the Support Ceiling will be revised to reflect any increased Commission support for the extended period or periods.

(d) Upon termination, or expiration of the total period of performance, the Contractor shall promptly refund to the Commission (or make such disposition as the Commission may in writing direct) any sums paid by the Commission to the Contractor under this contract, through direct payment or under letter of credit, in excess of the Cumulative Support Cost incurred in performance under the contract.

* * * * *

ARTICLE V—GOVERNMENT PROPERTY

The following items of property procured or fabricated by the Contractor are hereby listed as "Government Property." [List all property and equipment, title to which is to remain in the Government. Insert the word "none" if title to all of the property is to be vested in the Contractor. If title to property procured or fabricated by the Contractor is to remain in the Government, add appropriate provisions for payment for such property from plant and equipment funds. Such funds should be in addition to, and not a part of, the "Support Ceiling" funds provided under Article III.]

* * * * *

[1] The term Cumulative Support Cost refers to the cost of items under A–II(a) of Appendix A, for the initial contract period plus any extension periods, that may be properly chargeable to the AEC. If proportionate cost-sharing is involved, the Support Cost is the AEC's share of such costs, and it does not include the cost of items excluded from Article A–II(a), such as items to be contributed solely by the Contractor or property to be furnished by the Government. Charges to the AEC will be reported after the conclusion of each contract period set forth in Appendix A (generally an annual period); in addition to the limitations on charges to the AEC provided for by this Article III, charges to the AEC for a specified contract period may not exceed 110 percent of the estimated Support Cost for that contract period except as approved by the AEC (see Article B–XXVIII). The estimated Support Cost for each pertinent period of contract performance will be set forth in Article A–III. If Article A–III of Appendix A provides that the cost of the items listed under Article A–II(a) is to be proportionately shared by the parties, the charges to the AEC shall be determined by applying the AEC's sharing percentage set forth in Article A–III to the cost for items under Article A–II(a) incurred during the specified contract period; such charges to the AEC shall also be subject to the 110 percent limitation mentioned above as well as to the provisions of this Article III.

APPENDIX A

For the contract period ---------- through ----------

Article A–I. *Research to be performed by Contractor.* [Insert description of research activity and state the approximate percentage of time or effort which the principal investigator(s) expects to devote to the work.]

Article A–II. *Ways and means of performance:*

[The listings under (a), (b), and (c) below should be in a form to permit determination of which items of cost are to be chargeable to AEC or proportionately shared, and which items are to be contributed solely by the Contractor or solely by the AEC; the listing should also permit application of the approval requirements of the contract. Excessive detail in listing should be avoided.]

(a) Items for which support will be provided as indicated in A–III, below. [Do not include in this paragraph (a) any items which are to be contributed solely by the Contractor; see AECPR 9–4.5107–2(c).]

(1) Salaries and wages. [List categories of personnel, according to scientific discipline or other designation, and the number of personnel in each category expected to participate in the research work. If any stipulated salary support amounts for professorial staff members are established in accordance with AECPR 9–4.5106–3a, the stipulated amounts, along with any limitations or requirements on the use of such stipulated amounts (see AECPR 9–4.5106–3a(c)) should be provided for in the contract.]

(2) Supplies and materials. [List separately any significant items of a special nature.]

(3) Equipment to be purchased or fabricated by the Contractor. [List equipment to be purchased or fabricated by the Contractor and for which title is to remain in the Contractor and state the total dollar amount budgeted for such equipment. Such equipment may be set forth in general classifications as specifically as possible if it is not feasible to list them individually. However, any individual piece of equipment, the estimated cost of which is over $1,000, will be separately identified. Except where the contract may otherwise specifically provide, equipment for the purpose of this paragraph A–II shall mean an item of personal property having a useful life expectancy in excess of one year and an acquisition cost in excess of $100.]

(4) Publications.

(5) Travel.

(6) Other.

[List separately each significant type of cost included in this category. Indicate briefly the kinds of costs that will not be separately identified.]

(7) Indirect costs based upon predetermined rate of ------ percent.

[Show factor or factors of cost to which rate applies—generally, direct salaries and wages.]

(b) Items, if any, significant to the performance of this contract, but excluded from computation of Support Cost and from consideration in proportioning costs. [See AECPR 9–4.5107–2(c).]

(1) *Items to be contributed by the Contractor.* In accordance with Article B–II(c), if a proposed Contractor contribution is included in this paragraph (b)(1), the Contractor shall maintain records adequate to permit the Commission to determine the extent of the contribution. If the time or effort of the principal investigator(s) is to be contributed by the Contractor and excluded from A–II(a) and A–II(b), the contributed time or effort should be listed under A–II(c).

(2) *Items to be contributed by the Government.*

(c) Time or effort of principal investigator(s) contributed by Contractor but excluded from computation of Support Cost and from consideration in proportioning costs. [Where covered under A–II(a) or A–II(b)(1) above, state: "None." See AECPR 9–4.5107–2(d).]

Article A–III. The total estimated cost of items under A–II(a) above for the contract period stated in this Appendix A is $------; the Commission will pay ------ percent of the actual costs of these items incurred during the contract period stated in this Appendix A, subject to the provisions of Article III and Article B–XXVII. The estimated AEC Support Cost for the contract period stated in this Appendix A is $------.

Contractor: ---------- Contract No. -------

* * * * *

ARTICLE B–XI—PAYMENTS

(a) The Commission shall make payments to the Contractor with respect to the amount of consideration prescribed in Article III of this contract as follows:

(1) A maximum of 45 percent of the estimated AEC Support Cost as set forth in Article A–III of this contract following execution of this contract (and following the effectuation of each extended period).

(2) A maximum of an additional 45 percent of the estimated AEC Support Cost as set forth in Article A–III of this contract upon receipt of a request or requests from the Contractor evidencing that the amount requested is then required in connection with the work under the contract.

[NOTE: Subparagraphs (1) and (2) of this paragraph (a) may be revised, as deemed appropriate by the field office, in accordance with AECPR 9–4.5112–3(a).]

(3) If, following submission of an annual progress report, the contract is to be extended for an additional period of performance, an additional payment may be made at the time of execution of the extension which, when added to the payments already made under (1) and (2) above for the expiring period, will not exceed the currently estimated AEC Support Cost for the expiring period; a concluding payment for the pertinent period, if appropriate, may be made following submission of a certified statement showing the AEC Support Cost and evidencing the Contractor's performance under the contract.

(4) If the contract is not to be extended, the final payment of the consideration provided for in Article III of this contract shall be made following submission by the Contractor of a final report required by Article B–XXI, in form and content satisfactory to the Commission, and submission of a certified statement showing the AEC Support Cost and evidencing the Contractor's performance under the contract.

(b) The payments made pursuant to paragraph (a) above shall not prejudice or otherwise affect adversely any of the Government's rights under the contract. For purposes of settlement in the event of termination pursuant to Article B–X hereof, these payments shall not be construed as evidentiary, and any excess payment in the light of Article B–X shall be promptly returned to the Commission.

(c) The Commission, at its option, may invoke the following with respect to any amount of the contract consideration remaining to be paid at any given time:

(1) The Commission shall issue a letter of credit as provided for by Treasury Department Circular No. 1075, Revised, of February 13, 1967, under which payments to the Contractor with respect to the amount of consideration provided for in Article III of this contract will be made. The Contractor agrees that the first ninety (90) percent of the estimated AEC Support Cost as set forth in Article A–III of the contract

will be under the letter of credit and will be subject to the submission by the Contractor of a Payment Voucher on Letter of Credit (TUS 5401), in accordance with procedures based upon Treasury Department Circular No. 1075, Revised, of February 13, 1967, which are agreed to by the parties. Following submission by the Contractor of a final report provided for in Article B–XXI, in form and content satisfactory to the Commission, and submission of a certified statement showing the total expenditures and evidencing the Contractor's performance under the contract, and upon submission by the Contractor to the Commission of such invoices or vouchers as are satisfactory to the Commission, the Commission shall pay the Contractor the concluding payment of the consideration provided for in Article III of this contract, or said concluding payment will be included under the letter of credit and will be subject to submission by the Contractor of a Payment Voucher on Letter of Credit, in accordance with the procedure described above. If, following submission of an annual report, the contract is extended for an additional period of performance, an additional payment may similarly be made at the time of execution of the extension which, when added to the payments already made for the expiring period, will not exceed the currently estimated AEC Support Cost for the expiring period; a concluding payment for the pertinent period, if appropriate, may be made following submission of a certified statement showing the AEC Support Cost for the pertinent period and evidencing the Contractor's performance under the contract.

(2) The Commission reserves the right to increase, decrease, or cancel the amount covered by the letter of credit, provided that such action is required because of a change in the amount of consideration provided for in Article III or is taken pursuant to subparagraph (c)(1) of this article. The issuance and use of a letter of credit and receipt of funds pursuant thereto shall not prejudice or otherwise adversely affect any of the Government's rights under the contract.

* * * * *

ARTICLE B–XXVII—DETERMINATION OF SUPPORT COSTS

(a) The term "Support Cost" as used in this contract means the Commission's share[1] of the sum of costs incurred by the Contractor for items included under Article A–II(a) of Appendix A which are in furtherance of the work hereunder, which are incurred in accordance with the provisions of this contract, and which are reported to the AEC in accordance with (b) below. The term "Cumulative Support Cost" as used in this contract means the total of the Support Cost incurred during the initial contract period plus any extension periods of the contract.

(b) Within 3 months after the end of each contract period set forth in Appendix A, and within 3 months after the termination or expiration of the total period of performance, the Contractor shall furnish a certified statement, executed by an official of the Contractor and also signed by the principal investigator, showing the Contractor's cost, and evidencing its performance under the contract, during the contract term just completed. The statement shall show all costs incurred during the pertinent contract term set forth in Appendix A for items under Article A–II (a) of Appendix A, including the Contractor's share, if any, of such costs, and show the extent of the Contractor's contribution of items listed under Article A–II(b)(1) of Appendix A. Costs included in the certified statement may include the following: Expenditures of cash; the cost of material and supplies transferred from stores inventory; and the amount due the Contractor for indirect costs in accordance with the rate and factor or factors shown in Appendix A of the contract for the pertinent contract period. The costs for the pertinent contract period shall be consistent with the principles of the Bureau of the Budget Circular A–21, as constituted on the effective commencement date of said period. The certified statement shall be in the form set forth in Appendix C.

(c) The Contractor understands that the Commission expects to rely on this certified statement for determining the Support Cost for the pertinent contract period. With respect to any period in which proportionate cost-sharing is applicable, the Support Cost for the pertinent period will be determined by applying the percentage figure included in Article A–III for the pertinent period, to the certified cost of items included under Article A–II(a) incurred during the pertinent contract period. All charges to the AEC shall be subject to the approval requirements of this contract. The Contractor is expected to maintain auditable records as contemplated by Article B–II(c) to substantiate the costs incurred for items under Article A–II(a) and to show the extent of the Contractor's contribution of items listed under Article A–II(b)(1).

ARTICLE B–XXVIII—ADDITIONAL APPROVALS

(a) In addition to such approvals as are specifically required by other provisions of this contract, the Contractor shall obtain the Commission's approval for:

(1) Acquisition of:

(i) An item of equipment, not itemized in Appendix A, involving an acquisition cost in excess of $1,000 or 2 percent of the total estimated cost specified in A–III of Appendix A, whichever is greater, unless such equipment is merely a different model of an item listed in Appendix A. [When plant and equipment funds are provided for the acquisition of Government property, the Headquarters Program Divisions may require, in specific cases, that such funds be used only for acquiring the equipment designated in Article V, unless prior AEC approval has been obtained.]

(ii) Any equipment not itemized in Appendix A, the acquisition cost of which will cause the equipment dollar level shown in Article A–II(a) of Appendix A to be increased by $500 or more. (If plant and equipment funds are provided for the acquisition of equipment, with title to be vested in the Government, the total cost of such equipment acquisitions shall not exceed the amount budgeted for such equipment unless prior AEC approval has been obtained.)

(2) Purchase of any general-purpose equipment, such as office furniture or air conditioning, not specifically provided for in Appendix A, except that purchased without cost to the Commission.

(3) Incurring costs during the pertinent contract period set forth in Appendix A, for items set forth in Article A–II(a), in excess of 110 percent of the estimated cost specified in Article A–III for the pertinent contract period; charges to the Commission for any such costs incurred with the approval of the Commission shall also be subject to the limitations of Article III.

(4) A change of the principal investigator, or continuation of the research work without direction by an approved principal investigator. The principal investigator may increase or decrease the amount of effort which he devotes to the project without obtaining Commission approval; however, the principal investiagtor shall consult with the appropriate AEC Headquarters program representative if he plans to, or becomes aware that he will, devote substantially less effort to the work than anticipated in Article A–I. The purpose of such consultation will be to determine what effect, if any, the anticipated change will have on the research work.

(b) No change in the phenomenon or phenomena under study, i.e., broad category of the research under this contract, shall be made without the specific written approval of the Commission; ordinarily, such changes, if approved by the Commission, will be accomplished through a new contract or a mutually agreed-to modification. The Contractor may change the specific objectives in the research work described in this contract, provided it gives the Commission prompt notification of such changes; and the Contractor may continue to follow the new objectives while the Commission determines whether it wishes to continue the program under the changed approach.

* * * * *

APPENDIX C

U.S. ATOMIC ENERGY COMMISSION

Statement of Costs

1. Name and address of Contractor: _____

_____

2. Contract number: _____

3. Beginning and ending date of pertinent contract period: _____

4. Costs incurred during the pertinent contract period. (List only those costs which are to be reimbursed by the AEC or proportionately shared by the parties in accordance with Article A–II(a) and Article A–III.)

Cost categories[1]	*Amount*
a. *Salaries and wages*_____ (List personnel included in Article A–II(a) of Appendix A in same detail as shown in the Contractor's payroll distribution or time and attendance records.)	$_____
b. *Supplies and materials*_____ (Show in same detail as in Appendix A.)	_____
c. *Equipment* _____ (List separately the cost of each piece of equipment separately listed in Appendix A to the contract or for which separate approval was obtained from AEC.)	_____
d. *Publications* _____	_____
e. *Travel* _____	_____
f. *Other* _____ (List separately each type of cost included in this category.)	_____
g. *Total Direct Expenditures*_____	_____
h. *Indirect Charges*_____ (Indicate percent and expenditures to which percent is applied.)	_____

5. *Total Costs* for items under Article A–II(a) for pertinent contract period_____ _____

[1] The listing of categories should be consistent with the itemization in Appendix A.

[1] In those cases in which there is no proportionate sharing of costs, the Commission's "share" will be 100 percent. With respect to any period in which proportionate cost-sharing is applicable pursuant to Article A–III, it is understood that the Support Cost for that specified period will equal the stipulated percent of the sum of costs incurred by the Contractor during the stated period for items under A–II(a) of Appendix A, not to exceed 110 percent of the estimated Support Cost set forth in Article A–III for that contract period except as otherwise approved by the AEC.

Cost categories	Amount
6. *Support Cost* for the pertinent contract period set forth in Appendix A, as defined in Article B–XXVII of the contract, chargeable to AEC for the pertinent contract period (percent of Total Costs using percent shown in Article A–III of Appendix A for pertinent period of contract)	$
7. *Cumulative Support Cost* (Support Cost under this statement plus Support Cost for previous periods of the contract)	
8. *Accumulated Support Ceiling* in Article III of the contract	
9. Provide information regarding contributions by the Contractor of items listed in Article A–II(b) of Appendix A during pertinent contract period. State the extent of the Contractor's actual contribution; the measure of such contributions should be in the same terms as the Contractor's commitment under Article A–II(b), e.g., time, dollar, etc.	

I hereby certify that this report is true and correct to the best of my knowledge and belief and that the costs listed herein were incurred in connection with the performance of the research provided for under this contract and in accordance with the terms and conditions set forth therein.

Name and title of principal investigator

Signature Date

Name and title of business officer

Signature Date

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Effective date. These amendments shall be effective September 1, 1969, but may be observed earlier.

Dated at Germantown, Md., this 21st day of March 1969.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 69–3744; Filed, Mar. 28, 1969; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14710; FCC 69–289]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Public Inspection of Network Affiliation Contracts

Report and order. 1. The Commission has before it for consideration the notice of proposed rule making in the captioned proceeding, released July 16, 1962 (FCC 62–745) which proposed public inspection of the network affiliation contracts, agreements or understandings filed with the Commission pursuant to § 1.613 (47 CFR 1.613).[1]

The 1962 comments. 2. Comments were filed initially in September and October 1962 by Columbia Broadcasting System, Inc.; the Journal Co. (The Milwaukee Journal), licensee of Stations WTMJ, WTMJ–TV, and WTMJ–FM, Milwaukee, Wis.; National Broadcasting Co., Inc.; NBC Television Affiliates; Storer Broadcasting Co.; Pierson, Ball, and Dowd, on behalf of eight named licensees; Dow, Lohnes, and Albertson, on behalf of 15 licensees; Rock Island Broadcasting Co.; Meredith Broadcasting Co.; National Association of Broadcasters; Columbia Pictures Electronics Co., Inc.; Greater Rockford Television, Inc.; and American Broadcasting Co. Reply comments were filed by Storer and The Houston Post. These comments, save those of Columbia Pictures which strongly endorses the Commission's proposal, uniformly oppose the adoption of the rule by the Commission. Generally speaking, the commenters assert that information of the kind contained in affiliation contracts traditionally in competitive commercial enterprise has been handled in a confidential and restricted manner. They assert that as licensed broadcasters are commercial competitors their "business" information should be treated no differently, especially since in their view there is no public interest in its disclosure.

Further order and 1968 comments. 3. The Commission by order (FCC 68–954; 20299) released September 20, 1968, invited further comment and ordered oral argument to be held on November 18, 1968, to bring the record herein to date and to afford interested persons opportunity to draw the Commission's attention to arguments now deemed relevant. This latter action was taken because of the passage of time and the need of the Commission to consider the relevance of certain events since 1962—particularly the enactment by Congress of the Public Information amendment of the Administrative Procedure Act (5 U.S.C. 552) and the policy favoring public availability of government records enunciated by Congress in connection therewith.

4. Additional or further comments were filed by NBC Television Affiliates; Columbia Broadcasting System, Inc.; National Broadcasting Co., Inc.; Mutual Broadcasting System, Inc.; American Broadcasting Co., Inc.; and Columbia Broadcasting System Network Affiliates Association. All of these additional comments, except those of Mutual Broadcasting Co., opposed the Commission's proposed action. Mutual argues that the Public Information Amendments to the Administrative Procedure Act leave the Commission no choice but to permit public inspection. It believes that "network affiliation contracts are not the type of document which was intended to be exempted from the public disclosure provisions of the Act." The proposed action, it says, is in the public interest as, among other things, it will enable interested licensees to detect and bring to the Commission's attention violations of its rules and policies.

Background; notice of proposed rule making. 5. The Commission's original notice of proposed rule making was brief. Among other things, it noted the recommendation made in 1957 by the Antitrust Subcommittee of the House Committee on the Judiciary[2] that the Commission "consider the advisability of making public the network affiliation contracts filed with it." About the same time the Staff Report of the Senate Committee on Interstate and Foreign Commerce[3] recommended that affiliation contracts should be a matter of public record in order to improve competitive conditions in the industry and promote "fair and uniform treatment for all affiliates." The House Committee stated that its study of affiliation agreements "reveals widespread, arbitrary and substantial differences in the terms accorded by each network to its individual affiliates, particularly in respect to station compensation for network broadcasting services," which differences "primarily favor large multiple station licensees vis a vis the small independent operators." In 1957, the Commission's Network Study Staff recommended in its report[4] that the Commission enact a rule making public the network affiliation contract.

6. In all three cases, the industry put forward essentially the same arguments against publication as are presented to us in this proceeding.[5] In each case these arguments were carefully considered and rejected. All three bodies—both Congressional Committees and the Commission's Network Study Committee—made exhaustive studies of network broadcasting and were particularly concerned with the network-affiliate relationship and the public interest in broadcast service. Against this informed background they

[1] Formerly § 1.342. By order Aug. 2, 1945, in Docket 6572 the Commission ordered that "network and transcription contracts" should not be open to public inspection. All other contracts and agreements required to be filed under the section (now § 1.613) are public.

[2] Report of Antitrust Subcommittee of House Committee on the Judiciary, 85th Cong., first sess., Mar. 13, 1957, page 141.

[3] The Television Inquiry Staff Report Committee on Interstate and Foreign Commerce, 85th Cong., first sess., June 26, 1957, page 95.

[4] Network Broadcasting, Report of the Network Study Staff to the Network Study Committee, FCC, Washington, D.C., 1957, printed as House Report No. 1297, 85th Cong., second sess., Report of the Committee on Interstate and Foreign Commerce (page 467).

[5] For instance, the following from the record of the Magnuson Committee (Transcript. The Television Inquiry, pp. 2438, 2439).

Mr. Cox. Would you have any objection to having the copies of your affiliation contracts which are filed with the Federal Communications Commission made a matter of public record?

Mr. Sarnoff. I would have an objection on the basis that I don't think these matters are matters of public information. I think they are arrangements by private parties. I see no purpose in making them public * * *. [W]e are opposed * * *.

were unanimous in their view that competitive conditions in the industry would be substantially improved and station independence fortified by making public the network affiliation contracts.

Amendment of Commission disclosure rule since 1962. 7. After the issuance of the original notice and the filing of the 1962 comments, the Commission's rules and procedures as to public availability of information generally (including contracts required to be filed under § 1.613) were revised from time to time. Section 0.406 (later renumbered § 0.417), the original rule proposed to be amended by the Commission's notice of proposed rule making herein, is no longer in force. It was superseded in 1967. Quite different procedures have been prescribed by the Commission with regard to exposure of documents such as network affiliation contracts filed with it when its rules with regard to disclosure were substantially revised to conform to the Public Information Amendments to the Administrative Procedure Act (5 U.S.C. 552).[6] (See §§ 0.457–0.461 of the Commission's rules). These new enactments, in effect, place the burden on the one who asserts that material affecting the public interest filed with the Commission ought to be held confidential. The rules require disclosure unless nondisclosure can be justified by the applicant. (See § 0.459). Specific exemptions are limited to (a) materials required by executive order to be kept secret in the interest of the national defense or foreign policy; (b) those related solely to the internal personnel rules and practices of the Commission; (c) materials that are specifically exempted from disclosure by statute (5 U.S.C. 552 (b)(3)); (d) trade secrets and financial information obtained by any person and privileged or confidential (5 U.S.C. 552 (b)(4); (e) inter- or intra-agency memoranda or letters (5 U.S.C. 552(b)(5)); (f) personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)); (g) investigatory files compiled for law enforcement purposes, except to the extent available by law to a private party.

8. In 1967 when the Commission's rules were amended to reflect the new policies established by the Public Information section of the Administrative Procedure Act, for the first time since 1948 network affiliation contracts were not specifically exempted from disclosure. Section 0.457(d) incorporates a specific exemption for financial reports submitted by licensees and networks under § 1.611 but does not specifically exempt network contracts filed pursuant to § 1.613, as was formerly the case under §§ 0.406 and 0.417.

[6] Network affiliation contracts and some "transcription" contracts were the only contracts filed pursuant to § 1.613 which were not routinely available for public inspection under former §§ 0.406 and 0.417. The present rule (§ 0.457) does not specifically exclude network affiliation contracts from public disclosure. But as a matter of practice they are not at present routinely available for public inspection.

Discussion. 9. Most of the commenters say that to require public disclosure of affiliation contracts—particularly network rates—will result in "competitive injury" to licensee-affiliates without any compensating benefit to the public; that in the commercial community such information is normally handled as confidential and restricted and that "there is no reason for treating such information differently in broadcasting." They appear to argue that the same tests should be applied ipso facto to the retention and disclosure of information in the field of broadcasting as in ordinary commercial enterprise. This line of argument, of course, is wide of the mark and overlooks the unique nature of broadcasting.

10. It is true that business aspects of broadcasting, including rates, are established by private initiative and regulated by the interplay of competitive forces rather than by governmental fiat. It is equally true, however, that simply to be an adequate commercial competitor does not discharge a broadcaster's responsibility as a licensee of this Commission under the Communications Act. The differences between a broadcaster and an ordinary commercial entrepreneur stem from the terms of his license and the nature of his calling. As we have said recently:[7]

> The license to operate a broadcast station is a limited or quasi-monopoly granted by the government in the general public interest rather than for the primary benefit of the licensee * * *. The limited monopoly granted by a broadcasting license cannot be used by the licensee to gain a competitive advantage with respect to any transaction or matter other than the operation of the licensed facility within the specified terms of the license.

The essential nature of the broadcaster's calling and the terms of his license within which he must operate have been generally described by the Court of Appeals of the District of Columbia:

> [Broadcasting] is not a public utility in the same sense as strictly regulated common carriers or purveyors of power, but neither is it a purely private enterprise like a newspaper or an automobile agency. A broadcaster has much in common with a newspaper publisher but he is not in the same category in terms of public obligations imposed by law. A broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise it is burdened by enforceable public obligations. A newspaper can be operated at the whim or caprice of its owners; a broadcast station cannot. (Office of Communication of the Church of Christ v. F.C.C. 359 F. 2d 994 123 U.S. App., D.C. 328, 337.)

In terms of the present matter, the result is that while an ordinary commercial entrepreneur may withhold information from his competitor and the public at his "whim or caprice" a broadcaster may be required to disclose information which he considers to be competitive if the public interest of which he is trustee will be served by such action.

[7] In re Complaint of Jim Crockett, WFLI, Lookout Mountain, Tenn. 13 F.C.C. 2d 846 (FCC Document 68-59).

11. It is, of course, a truism that the Commission should not use its statutory powers to forward the "private interests" of licensees or others when no public interest will be served. However, such will not be the result of making these contracts public. Our action will directly serve the public interest in the fostering and maintaining of a national competitive broadcast structure. We believe that publication of affiliation contracts will make a major contribution toward this objective. It will enhance and intensify competition among broadcasters and will equip licensees and the public with additional information relevant to the public interest. We cannot, of course, delineate with precision and in detail all the benefits to the public interest which will flow from opening up the affiliation contracts to general scrutiny. Our system assumes that private ingenuity will create innovations and plot new courses when the opportunity is opened to willing competitors.[8]

12. With respect to the information about which most of the discussion in the comments centered—details of the network-station compensation arrangements, including percentage returned to the station and "free hours" (if any)—the Commission's Network Study Staff concluded in 1957 that disclosure of such information would be in the public interest. It would aid stations in their bargaining with the networks by making information available to one side to the same extent it is to the other. Also it would tend to decrease variations in compensation arrangements except where they can be justified by the networks on the basis of cost differences, as, for example, variations based on earlier scarcities of facilities which have long since disappeared.[9] We find these considerations significant in furtherance of free competition and the public interest. Moreover, opening this type of information to the scrutiny of informed persons may assist the Commission in taking action, where necessary and appropriate, to remove unwarranted barriers on such competition and adopt regulations to further the public interest. Moreover, aside from whatever significance disclosure to other components of the industry may have, these matters relate to the public

[8] "In the nature of things the possible benefits of competition do not lend themselves to detailed forecast * * *. [It is sufficient] that there be ground for reasonable expectation that competition may have some beneficial effect," F.C.C. v. RCA Communications, 346 U.S. 86, 97; 97 L ed. 1470, 1479, 73 S. Ct. 998 (1953). The relevance of the network contracts to the public interest is clear. The need of the Commission to have the affiliation contracts available to it in order to determine and protect the public interest in network service is uniformly conceded in the comments.

[9] See Network Broadcasting Report (footnote 4 supra), pp. 467–468. The Report noted earlier in its discussion (p. 462) that multiple owners are sometimes in a position to exact higher compensation from networks, by virtue of their relatively strong bargaining positions.

interest and the availability of this information is important to the public in its continuing interest in the nature and quality of broadcast service. For instance, were the decision by a licensee to affiliate with a particular network, or to present a particular network program rather than another program, made solely on the basis of the compensation received, the public interest would not be served. Indeed, a broadcaster who makes a decision as to what network he will present to the public solely on the basis of a "clearance auction" among networks abandons his responsibility and violates his trust as a community broadcaster. The public is entitled to have access to information bearing on the extent to which this may be a consideration in program selection.

13. Moreover, an affiliation contract also includes other terms and conditions which may materially affect the broadcast service which will be provided to a particular community. These include means of interconnection and the delivery of programs to the community, the acceptance or rejection of programing by licensees as well as the use of sustaining programs, presentation of national and local commercial messages, delayed broadcast arrangements, provision for preemption of programing under certain conditions and a number of other matters which have a direct bearing on the amount and type of network service which the community will receive. In the radio field these contracts also define the amount and placement of option time being used by a particular station. The public has a legitimate interest in knowing the terms upon which its network service is provided, in these respects just as with respect to compensation terms. The basic right of the public to access to information kept by Government agencies, in the absence of very substantial reasons to the contrary, was emphasized by Congress in adopting the 1966 "Public Information" amendments to the Administrative Procedure Act. The particular importance of an informed public in broadcast regulation has been emphasized recently in decisions such as United Church of Christ v. F.C.C. (supra), as well as by Congress in adopting the 1960 amendments to the Communications Act concerning local notice. In light of these principles we do not find the reasons urged for confidentiality substantial enough to be controlling here.

14. Incidental competitive or commercial injury sustained by individuals because of the Commission's exercise of its duty to protect the public interest in broadcasting cannot be pleaded as a bar to the Commission's exercise of its statutory authority to make public information deemed essential or relevant to the public interest.[10] This is in accord with long established principles of administrative law. However, it does not appear probable that making these contracts public will unduly damage networks and licensees in their legitimate competive contest. The extent of "competitive advantage" which will be gained by less-advantaged affiliates through disclosure of rates and arrangements afforded "preferred" affiliates in competively advantageous markets appears to have been exaggerated in some of the comments. A principal argument put forward is that, should the terms and conditions under which affiliates operate in favored markets become known to other affiliates they would demand equal treatment and the networks—particularly ABC because of its peculiar competitive circumstances—would be materially injured. We do not believe that this is as serious an obstacle to disclosure as some of the comments would appear to indicate. Indeed, it is doubtful that the legitimate competitive bargaining ability of affiliates will be affected to the public harm by disclosing the rate and compensation arrangements in affiliation contracts. It is well known in the industry that there are markets—so-called two-VHF communities, for instance—where licensee affiliates enjoy favorable bargaining positions and hence are able to command "premium compensation," fewer or no "free hours," etc. The Commission has commented at length on this situation in various opinions and these markets have been identified.[11] Indeed, as long ago as 1956, John S. Hayes, President of the Washington Post Broadcasting Co., testified before the Magnuson Committee that within the industry there is a "kinship" among affiliates and broadcasters and they can tell "pretty accurately" what happens, and Robert Sarnoff of NBC agreed that affiliates are reasonably well informed as to compensation paid other affiliates.[12] Hence, the fact that some affiliates are paid premium rates and do not provide free hours will not—except, perhaps, as to the detail—come as a shock or even be "news" to their competitors. The actualities of competitive advantage based on physical restrictions on the spectrum cannot be removed by publicity. These eccentric situations and their other "competitive commercial consequences" are well known.

15. Several commenters seem to say that the Supreme Court has held that disclosure or exchange of price information, in and of itself, constitutes an impediment to free competition. It is argued that since voluntary agreements to exchange price information between networks and stations raise serious antitrust questions, action by the Commission to require publication of information of the same type should be "against public policy because of the dangerous tendencies that its circulation might unduly hinder competition." This line of argument is based on what is at least a forced interpretation of several cases in the field of antitrust law as it relates to price fixing. These cases involve situations where combinations or agreements to fix prices were to be effectuated through voluntary exchange of information, patent licensing agreements, basing point agreements, etc. These cases do not stand for the proposition for which they are cited and from which the analogy to the Commission's action is drawn. Far from condemning all voluntary exchange of "information" among competitors the Supreme Court in the principal case cited stated: [13]

> • • • the dissemination of information is normally an aid to commerce. As free competition means a free and open market among both buyers and sellers, competition does not become less free merely because of the distribution of knowledge of the essental factors entering into commercial transactions. The natural effect of the acquisition of the wider and more scientific knowledge of business conditions on the minds of those engaged in commerce, and the consequent stabilizing of production and price cannot be said to be an unreasonable restraint or in any respect unlawful.

The court further said that in the absence of compulsory price fixing "provision for publicity may be helpful in promoting fair 'competition' " [14] and that the antitrust laws do not: [15]

> prevent the adoption of reasonable means to protect interstate commerce from destructive or injurious practices and to promote competition upon a sound basis • • •. A cooperative enterprise otherwise free from objection which carries with it no monopolistic menace, is not to be condemned as an undue restraint merely because it may effect a change in market conditions where the change would be in mitigation of recognized evils and would not impair, but rather foster fair competitive opportunities.

16. It is argued that to permit publication of these contracts would violate section 1905 of the U.S. Criminal Code.[16] We do not believe such to be the case. That section prohibits disclosure of certain types of financial and business information by government officers or employees "in any manner and to any extent not authorized by law." We are fully authorized by the Communications Act to require disclosure of these contracts upon our finding that the public interest in broadcasting so requires. This flows from our authority and duty under the act to take such actions and make such rules and regulations as may be

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[10] See F.C.C. v. Cohn 154 F. Supp. 891, 906–7; "The public interest to be served • • • would necessarily outweigh any intrusion on the private rights of respondents • • •." P. 904: "The rights of the individual businessman to privacy in his business affairs must yield to the paramount public interest." See Fleming v. Montgomery Ward (7 Cir.) 114 Fed. 2d 384 cert. den. 311 U.S. 690; 61 S. Ct. 71; 85 L. Ed. 446; American Sumatra Tobacco Corp. v. S.E.C. 110 F. 2d 117, 120; Utah Fuel Co. v. Nat'l Bituminous Coal Comm. 306 U.S. 56; 59 S. Ct. 409, 412; Electric Bond & Share v. S.E.C. 303 U.S. 419, 82 L. Ed. 936, 58 S. Ct. 678; Bank of America Trust & Sav. Ass'n v. Douglas 70 App. D.C. 221; 108 F. 2d 100. Bowles v. Willingham 321 U.S. 503; 64 S. Ct. 649.

[11] See, for instance, Amendment of § 3.658 (d) and (e), etc. (Option Time) 34 F.C.C. 1103; 1124–1125; In the Matter of Assignment of Additional VHF Channels 25 R.R. 1607 (particularly Dissenting Opinion of Commissioner Cox 1700–1708).

[12] The Television Inquiry (see note 3 ante). Hearings pp. 2437–2438; 2534–2535.

[13] Sugar Institute v. United States, 297 U.S. 596, 598.

[14] Ibid. p. 602.

[15] Ibid. p. 598.

[16] 18 USCA 1905.

necessary to provide a broadcast service in the public interest, and to promote the "public interest * * * in the larger and more effective use of radio." [17] Competitive opportunity is an essential ingredient of the public interest in broadcast service; [18] is necessary to promote the larger more effective use of radio in the public interest and to permit "maximum utilization of radio facilities." [19]

17. The Public Information Amendment to the Administrative Procedure Act expresses an overall policy of Congress favoring maximum disclosure to the public of government records. There are certain specific types of materials to which the mandatory disclosure requirements of the Act do not apply. These exemptions are reflected in our current rules enacted in 1967 to conform our practices and procedures to the new disclosure policy. (See §§ 0.451–0.461.) Included in the categories to which the new Act does not apply is "* * * commercial or financial information obtained from a person and privileged or confidential." It is argued that the legislative history of the Public Information Act indicates that it intended to exempt competitive information from disclosure.[20] Indeed, one commenter seems to argue that under the new Act the statement by one providing such information that he would not usually make it public should be the sole test. We think it is clear that Congress did not so intend. As indicated in our rules (§ 0.457), this exemption simply makes clear that the Commission is not required under the Act to make such information publicly available. As an example, absent a finding that the public interest requires disclosure of network affiliation contracts, it appears probable that we would be permitted under this exemption to refuse to permit their inspection. Conversely, however, the "exemption" from the Act in no way changes or inhibits the Commission's authority to take such actions and issue such rules and regulations as the public interest may require. The suggestion in the comments that this exemption to the Public Information Act affirmatively exempts such information from disclosure is erroneous.

18. The proposal put forward by Storer in its comments would not be adequate to accomplish the public interest objective here involved. Storer would make the contracts available only to other affiliates of the same network for the limited purpose of network-affiliate bargaining. As we have said, there is a high degree of public interest in affiliation arrangements. This interest is much broader than the very limited use of compensation information envisaged by Storer and includes not only details of that sort but all of the matters bearing on the basis upon which network program service—a principal component of all broadcast service—is provided in communities throughout the land. Hence, such arrangements are of concern to television and radio audiences.

19. To accomplish our purposes we do not believe that we need to make public the material already filed with us under the safeguard of our former rules. Therefore we are making our order prospective in effect. Also to facilitate inspection we are requiring that each contract initially filed after the effective date hereof be composed of one document without reference to other papers by incorporation or otherwise. Subsequent filings may simply set forth renewal, extension, amendment, as the case may be, of any one-document contract previously filed subsequent to the effective date hereof.

20. Therefore, in view of the foregoing: *It is ordered*, That effective May 1, 1969, and pursuant to authority contained in sections 303 (c), (g), (i) and (r), 307 (a), (d) and 309(a) of the Communications Act of 1934, as amended, § 0.455(b) of the Commission's rules and regulations is amended by adding a new subparagraph (3) as follows:

§ 0.455 **Other locations at which records may be inspected.**

* * * * *

(b) *Broadcast Bureau.* * * *

(3) Contracts relating to network service filed on or after the 1st day of May 1969, under § 1.613 of this chapter.

* * * * *

21. *It is further ordered*, That § 1.613 of the Commission's rules and regulations be amended by striking out the first sentence of paragraph (a) thereof and substituting the following:

§ 1.613 **Filing of contracts.**

* * * * *

(a) Contracts relating to network service: All network affiliation contracts, agreements or understandings between a station and a national, regional or other network shall be reduced to writing and filed. Each such filing on or after May 1, 1969 initially shall consist of a written instrument containing all the terms and conditions of such contract, agreement, or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, extension, amendment, or change, as the case may be, of a particular contract previously filed in accordance herewith. * * *

* * * * *

22. *It is further ordered*, That this proceeding is terminated.

(Secs. 303, 307, 309, 48 Stat., as amended, 1082, 1083, 1085; 47 U.S.C. 303, 307, 309)

Adopted: March 21, 1969.

Released: March 25, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[21]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-3772; Filed, Mar. 28, 1969; 8:50 a.m.]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

[Docket No. MC-6; Notice 68-6]

PART 394—RECORDING AND REPORTING OF ACCIDENTS

Public Availability of Accident Reports; Decision on Petitions for Reconsideration and Stay of Effective Date

On January 17, 1969, after due notice and the opportunity for public participation, the Administrator issued a rule which revoked § 394.1 of the Motor Carrier Safety Regulations (34 F.R. 1152). That section had provided that motor carrier accident reports in the files of the Federal Highway Administration were not available for public inspection. In his order, the Administrator announced that accident reports filed after March 31, 1969 would be made available to the public.

A number of regulated motor carriers and trade associations composed of such carriers have filed petitions for reconsideration of the January 17 rule. Some of the petitions also ask that the rule's March 31, 1969, effective date be stayed pending determination of whether it should be revoked or modified.

Upon consideration and analysis of the petitions for reconsideration, the Administrator has determined that they contain nothing of substance that was not considered before the rule was issued and rejected on the merits or that justifies withdrawing the rule or suspending its effective date. Therefore, the petitions for reconsideration are denied.

Inasmuch as the use of motor carrier accident reports is governed by section 220(f) of the Interstate Commerce Act, 49 U.S.C. 320(f), which restricts their use in litigation, the Administrator has directed that administrative measures be taken to insure that those restrictions are brought to the attention of persons who seek, and are granted, access to accident reports in the files of the Administration.

(Secs. 204, 220, and 224, Interstate Commerce Act, 49 U.S.C. 304, 320, 324, 49 CFR 1.4(c))

Issued on March 27, 1969.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 69-3811; Filed, Mar. 28, 1969; 8:50 a.m.]

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[17] Communications Act Sec. 303(g), 303(r) National Broadcasting Co. v. U.S. 319 U.S. 190, 216.

[18] In the Matter of Amendment of 3.658 (d) and (e) etc. (Option Time) 34 F.C.C. 1103, 1127–1129.

[19] NBC v. United States 319 U.S. 190, 215, 223–224, F.C.C. v. Sanders Bros. 309 U.S. 470, 475.

[20] Senate Report No. 813 (to accompany S. 1160) 89th Cong., 1st sess., p. 9; House Report No. 1497 (to accompany S. 1160), 89th Cong., 2d sess., p. 10.

[21] Commissioners Bartley, Robert E. Lee, and H. Rex Lee absent.

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 230]

U.S. WHALING REGULATIONS

Proposed Catch Quota for North Pacific

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Act of August 9, 1950 (the Whaling Convention Act of 1949 (64 Stat. 421; 16 U.S.C. 916 et seq.)) which has been subsequently delegated to the Director of the Bureau of Commercial Fisheries on June 17, 1965 (30 F.R. 8114; sec. 241.3.1, Departmental Manual), it is proposed to amend 50 CFR Part 230 by adding a new § 230.25 setting a catch quota. The Whaling Convention Act of 1949 authorizes the Secretary of the Interior to adopt such regulations as may be necessary to carry out the purposes and objectives of the International Whaling Commission.

The new § 230.25 establishes a catch quota for U.S. citizens for fin and sei whales taken in the waters of the North Pacific. The need for this quota was demonstrated by data presented at meetings of the International Whaling Commission. At the 20th meeting of this Commission the United States agreed, along with other member nations, to set quotas for these two whale species for the North Pacific.

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

The new section will be added following the existing § 230.22, and the new section reads as follows:

CATCH QUOTAS

§ 230.25 Fin and sei whale quotas for the North Pacific.

Beginning with the 1969 season for taking baleen whales, it is forbidden for U.S. citizens to take more than 44 fin whales, plus or minus 10 percent, and 60 sei whales from the waters of the North Pacific Ocean.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685) and dated March 24, 1969.

H. R. CROWTHER,
Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 69-3745; Filed, Mar. 28, 1969; 8:48 a.m.]

[50 CFR Part 280]

EASTERN PACIFIC TUNA FISHERIES

Yellowfin Tuna

Amendments to the regulations prescribing the restrictions on the taking of yellowfin tuna from a defined area of the eastern Pacific Ocean are needed to carry into effect a change in the existing regulatory system recommended by the Inter-American Tropical Tuna Commission in a resolution adopted on March 22, 1969.

The proposed amendments are to be issued under the authority contained in subsection (c) of section 6 of the Tuna Convention Act of 1950, as amended (16 U.S.C. 955(e)).

The resolution adopted by the Inter-American Tropical Tuna Commission at its annual meeting held in San Diego, Calif., March 18–22, 1969, reads as follows:

RESOLUTION

The Inter-American Tropical Tuna Commission

Taking note that the reports of the scientific staff of the Commission indicate that although the 1968 catch of about 113,000 short tons of yellowfin tuna exceeded the estimated maximum equilibrium yield (using the purse-seine model of the fishery), it did not reduce the apparent abundance of yellowfin tuna to a level below which the yield could be maintained under average conditions at 100,000 short tons, and

Taking note that the present techniques of estimating maximum equilibrium yield in the circumstances of the present fishing do not provide complete assurance that greater yields are unattainable, and

Having considered the various alternative schemes of empirically testing for higher maximum equilibrium yields, prepared by the Commission staff,

Concludes that it is desirable to proceed with a program of experimental fishing for a period of 3 years beginning in 1969, which will be at a rate sufficient to create on the average a measurable reduction in adundance, if present assessments are correct, but not at a rate sufficient either to produce strongly adverse economic effects, or serious consequences to conservation of stocks.

Therefore recommends, subject to review in 1970 and 1971, to the High Contracting Parties, that they take joint action to:

1. Establish an annual catch limit (quota) on the total catch of yellowfin tuna for the calendar years 1969, 1970, and 1971, of 120,000 short tons from the regulatory area defined in the resolution adopted by the Commission on May 17, 1962; *Provided*, That if the annual catch rate falls below 3 short tons per standard day's fishing, measured in purse seine units, adjusted to levels of gear efficiency previous to 1962, as estimated by the Director of Investigations, the unrestricted fishing for yellowfin tuna in the regulatory area shall be curtailed so as not to exceed the estimate of the then current equilibrium yield and shall be closed on a date to be fixed by the Director of Investigations.

2. Reserve a portion of the annual yellowfin tuna quotas for allowances for incidental catches of tuna fishing vessels when fishing in the regulatory area for species normally taken mingled with yellowfin tuna, after the closure of the unrestricted fishery for yellowfin tuna. The amount of this portion should be determined by the scientific staff of the Commission at such times in 1969, 1970, and 1971 as the catches of yellowfin tuna approach the recommended quota for the year.

3. Open the fishery for yellowfin tuna on First January 1969, First January 1970, and First January 1971; during the open season vessels should be permitted to enter the regulatory area with permission to fish for yellowfin without restriction on the quantity until the return of the vessels to port.

4. Except if the catch rate falls below 3 short tons per standard day's fishing, close the fishery for yellowfin tuna in 1969, 1970, and 1971 at such date as the quantity already caught plus the expected catch of yellowfin tuna by vessels which are at sea with permission to fish without restriction reaches 120,000 short tons less the portion reserved for incidental catches in Item 2 above, and for the year 1969 only, the portion reserved for vessels of 300 short tons capacity and less provided for in Item 6, such date to be determined by the Director of Investigations.

In order not to curtail their fisheries, those countries whose governments accept the Commission's recommendations but whose fisheries of yellowfin tuna are not of significance will be exempted of their obligations of compliance with the restrictive measures.

Under present conditions, and according to the information available, an annual capture of 1,000 tons of yellowfin tuna is the upper limit to enjoy said exemption.

5. For 1969 only, permit each vessel over 300 short tons capacity (determined from tables prepared by the Commission on the basis of existing information and additional data provided by the various governments which relate capacity to gross and/or net tonnage) fishing tuna in the regulatory area after the closure date for the yellowfin tuna fishery to land an incidental catch of yellowfin tuna taken in catches of other species in the regulatory area on each trip commenced during such closed season. The amount each vessel is permitted to land as an incidental catch of yellowfin tuna shall be determined by the Government which regulates the fishing activities of such vessel: *Provided, however*, That the aggregate of the incidental catches of yellowfin tuna taken by all such vessels of a country so permitted shall not exceed 15 percent of the combined total catch taken by such vessels during the period these vessels are permitted to land incidental catches of yellowfin tuna.

6. For 1969 only, permit the flag vessels of each country of 300 short tons capacity and less (determined from tables prepared by the Commission on the basis of existing information and additional data provided by

the various governments which relate capacity to gross and/or net tonnage) fishing tuna in the regulatory area after the closure date for the yellowfin tuna fishery to fish freely until 4,000 short tons of yellowfin tuna are taken as a combined catch by such vessels or to fish for yellowfin tuna under such restrictions as may be necessary to limit the combined catch of yellowfin tuna by such vessels to 4,000 short tons; and thereafter to permit each such vessel to land an incidental catch of yellowfin tuna taken in the catch of other species in the regulatory area on each trip commenced after 4,000 short tons have been caught. The amount each vessel is permitted to land as an incidental catch shall be determined by the Government which regulates the fishing activities of such vessel: *Provided, however*, That the aggregate of the incidental catches of yellowfin tuna taken by such vessels of each country so permitted shall not exceed 15 percent of the total catch taken by such vessels during trips commenced after 4,000 short tons of yellowfin tuna have been caught.

7. The species referred to in Items 5 and 6 are: Skipjack, bigeye tuna, bluefin tuna, albacore tuna, bonito, billfishes, and sharks.

8. Obtain by appropriate measures the cooperation of those governments whose vessels operate in the fishery, but which are not parties to the Convention for the establishment in an Inter-American Tropical Tuna Commission, to put into effect these conservation measures.

Prior to the final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 300 South Ferry Street, Terminal Island, Calif. 90731, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, unless the closure comes before this time, in which case regulations could be adopted as an emergency measure. Interested persons will also be afforded an opportunity to comment orally on the proposed amendments at a public hearing to be held at the United Portuguese Club, 2818 Addison Street, San Diego, Calif., beginning at 9:30 a.m., April 10, 1969. Any person who intends to present views orally at this hearing is requested to furnish in writing his name and the name of the organization he represents, if any, to the said Regional Director.

The public hearing of April 10, 1969, will take the place of the hearing called for in 34 F.R. 5258 of April 2, 1969. Proposed amendments contained in 34 F.R. 5258 will be considered at the April 10, 1969 public hearing.

The proposed amendments, in tentative form, are described below:

1. Amend paragraph (b) of § 280.2 and subparagraph (3) of the said paragraph to read, respectively, as follows:

§ 280.2 Basis and purpose.

* * * * *

(b) At annual meetings held at Quito, Ecuador, May 16–18, 1962; at Panama City, Panama, April 16–17, 1963; at San Diego, Calif., March 18–19, 1964; at Mexico City, Mexico, March 23–24, 1965; at Guavaquil, Ecuador, April 19–20, 1966; at San Jose, Costa Rica, April 4–6, 1967; at Panama City, Panama, April 2–4, 1968; and at San Diego, Calif., March 18–22, 1969; the Commission affirmed its conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

* * * * *

(3) Permit the landing of not more than fifteen percent (15%) by weight of yellowfin tuna among the following fishes, usually caught mingled with yellowfin tuna, that are taken on a fishing trip begun after the close of the yellowfin tuna fishing season: Skipjack tuna, bigeye tuna, bluefin tuna, albacore tuna, bonito, the billfishes, and the sharks; and

* * * * *

2. Amend paragraph (c) of § 280.6 and add a new subparagraph (1) to the said paragraph to read, respectively, as follows:

§ 280.6 Restrictions applicable to fishing vessels.

* * * * *

(c) Any master or other person in charge of a fishing vessel which has departed port after the date of the closure of the yellowfin season may possess on board such vessel and land in any port or place yellowfin tuna taken as an incident to fishing for those species normally taken mingled with yellowfin tuna and listed in § 280.2(b)(3), but in no event shall the yellowfin tuna so permitted to be possessed or landed by tuna fishing vessels of over 300 short tons capacity exceed fifteen percent (15%) or so permitted to be possessed or landed by tuna fishing vessels of 300 short tons capacity or less exceed some percent in excess of 15 (the precise figure to be determined from data now being analyzed and from comments received in written briefs and testimony received at the public hearing) by round weight when included with those species listed in § 280.2(b)(3): *Provided*, That when the catch of yellowfin tuna made on trips begun after the yellowfin season by tuna fishing vessels of 300 short tons capacity or less reaches 4,000 short tons, their incidental catch rate will revert to fifteen percent (15%). A notice of revision which will apply to tuna fishing vessels of 300 short tons capacity or less leaving port after a selected date will be published in the FEDERAL REGISTER: *Provided, also*, That the Director by appropriate notice in the FEDERAL REGISTER may further adjust the incidental catch rates to assure that the United States incidental catch of fifteen percent (15%) is neither exceeded nor underutilized. Any quantity of yellowfin tuna possessed or landed in excess of the incidental catch limitations prescribed by this paragraph shall be subject to seizure pursuant to section 10(e) of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 959(e)).

(1) The short ton capacity of vessels shall be determined from tables prepared by the Commission which relate capacity to gross and/or net tonnage.

* * * * *

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685), and dated March 26, 1969.

WILLIAM M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 69-3742; Filed, Mar. 28, 1969; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 777]

PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Conversion Factor Basis of Reporting

Notice is hereby given pursuant to section 4a, Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553), that the Agricultural Stabilization and Conservation Service proposes to issue an Amendment to the Republication of the Processor Wheat Marketing Certificate Regulations (33 F.R. 14676).

Consideration will be given to all written comments or suggestions in connection with the proposed amendment filed in duplicate with the Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, during the 15-day period beginning with the date this notice is published in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (7 CFR 1.27(b)).

A request has been received by a processor reporting on the conversion factor basis to provide a conversion factor for a product produced in his plant which differs from any other product listed in § 777.14. This product is produced by blending of a part of the middling streams into the flour streams during the total course of processing. The resultant product contains approximately 90 percent straight grade flour and 10 percent middlings. Accordingly, a conversion factor for wheat flour-middlings blend is provided.

The proposed amendment of 7 CFR Part 777 would read as follows:

Section 777.14(c) is amended by adding a conversion factor for wheat flour-middlings blend as follows:

§ 777.14 Conversion factor basis of reporting.

* * * * *

(c) *Conversion factors.* * * *

A—Food Product	B—Bushels of wheat equivalent per 100 pounds of product (conversion factor)
* * *	* * *
Wheat flour-middlings blend (extraction rate approximately 80 percent, produced in a continuous operation whereby a portion of the middling streams are fed back into the flour streams; the product contains approximately 90 percent straight grade flour and 10 percent middlings).	2.083

* * * * *

Signed at Washington, D.C., on March 25, 1969.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69-3770; Filed, Mar. 28, 1969; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 133]

WHOLE BLOOD (HUMAN), RED BLOOD CELLS (HUMAN), AND ALLERGENIC PRODUCTS

Drugs Subject to Licensing by Division of Biologics Standards, National Institutes of Health; Current Good Manufacturing Practice in Manufacture, Processing, Packing, or Holding

The principles of current good manufacturing practice in manufacture, processing, packing, and holding of whole blood (human), red blood cells (human), and allergenic products are set forth in Part 73 (42 CFR Part 73). The Division of Biologics Standards, National Institutes of Health, has administered for many years the licensing requirements and controlled compliance with the standards of current good manufacturing practice established in these regulations under the terms of the Public Health Service Act of 1944, as amended.

The drugs are also subject to the provisions of the Federal Food, Drug, and Cosmetic Act of 1938, as amended, administered by the Food and Drug Administration. Among other things, such drugs are subject to sections 501(a)(2)(B) and (b) and 502(g) of that act.

The official compendia (that is, the United States Pharmacopeia and the National Formulary) recognize the necessity of the licensing control of the subject products by the Division of Biologics Standards of the National Institutes of Health and the necessity for the standards with respect to identity, purity, potency, packaging, storage, and labeling requirements for these drugs in Part 73 of the Public Health Service regulations (42 CFR Part 42).

The legal validity of the licensing requirements, practices, standards, etc., established with respect to whole blood (human), red blood cells (human), and allergenic products described in Part 73 has been drawn into question by a recent decision of the Court of Appeals for the Fifth Circuit, Blank v. United States, 400 F. 2d 302. Accordingly, in view of the public health importance of continuing in effect the licensing requirements, practices, standards, and other controls with respect to such products administered by the Division of Biologics Standards, National Institutes of Health, the Commissioner of Food and Drugs concludes that a new regulation should be proposed for Part 133.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a)(2)(B) and (b), 502(g), 701(a), 52 Stat. 1049–51, as amended, 1055; 21 U.S.C. 351(a)(2)(B) and (b), 352(g), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that a new section be added to Part 133, as follows:

§ 133.___ Whole blood (human), red blood cells (human), and allergenic products; drugs subject to licensing by the Division of Biologics Standards, National Institutes of Health.

(a) The methods used in, or the facilities or controls used for, the manufacture, processing, packing, or holding of the drugs whole blood (human), red blood cells (human), and allergenic products do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to assure that any such drug meets the requirements of the act as to safety and has the identity and strength and meets the quality and purity characteristics, which it purports or is represented to possess, unless the manufacture, processing, packing, and holding of such drugs conform to the licensing and other requirements as to such drugs and the practices and standards of manufacture, processing, packing, and holding applicable to such drugs set forth in Part 73 of Title 42. Applications for licensing shall be submitted to the Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014.

(b) The criteria in §§ 133.3–133.14, inclusive, shall also apply in determining whether the manufacture, processing, packing, or holding of any such drug conforms to, or is operated or administered in conformity with, current good manufacturing practice to the extent that these criteria are not inconsistent with the provisions of Part 73 of Title 42.

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

Dated: March 25, 1969.

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

[F.R. Doc. 69-3714; Filed, Mar. 28, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 9502]

AIRWORTHINESS DIRECTIVE

Pilatus Model PC–6 Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to Pilatus Model PC–6 Airplanes, Serial Nos. 1 through 701, 2001 through 2018, 2023, 2025 through 2029, 2040, and 2041. It has been determined that the pivot bolt located at the hatch door operating bellcrank on certain Pilatus Model PC–6 Airplanes is not sufficiently secured against rotating. In the event that the pivot bolt is torqued to below the required value, the pivot bolt may rotate out of the correct position, resulting in an incorrect indication of the hatch door locking mechanism. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed airworthiness directive would require installation of a new pivot bolt on Pilatus Model PC–6 Airplanes.

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 28, 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.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PILATUS. Applies to Model PC-6 Airplanes, Serial Nos. 1 through 701, 2001 through 2018, 2023, 2025 through 2029, 2040, and 2041.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent rotation of pivot bolt P/N 6203.25 located at the hatch door operating bellcrank, replace with a new pivot bolt P/N 112.40.06.120 in accordance with Pilatus Service Bulletin No. 88, dated December 1968, or later Swiss Federal Air Office approved issue, or an FAA-approved equivalent.

Issued in Washington, D.C., on March 21, 1969.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 69-3728; Filed, Mar. 28, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SW-14]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Waco, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

The U.S. Air Force has proposed an amendment to the JAL 439 TACAN/ILS RWY 18 instrument approach procedure to the Waco Municipal Airport, Waco, Tex., to eliminate the ILS final approach. It requires changing the 10-nautical-mile arc to the 15-nautical-mile arc and changing the final approach course to the Waco VORTAC 321° (magnetic) radial. Further, it requires that a portion of the arc be flown at less than 1,500 feet above the surface which would be outside controlled airspace. Alteration of the Waco transition area as proposed would provide airspace protection for aircraft executing the amended approach procedure.

The Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (34 F.R. 4780), the Waco, Tex., transition area 700-foot portion is amended in part by deleting "* * * lat. 31°27'00" N., long. 97°34'00" W.; to lat. 31°33'00" N., long. 97°28'00" W.; to lat. 31°46'00" N., long. 97°30'00" W.; to lat. 31°59'00" N., long. 97°24'00" W. * * *" and substituting therefor "* * * lat. 31°27'00" N., long. 97°34'00" W., to lat. 31°46'30" N., long. 97°41'50" W., to lat. 31°59'00" N., long. 97°24'00" W. * * *."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on March 18, 1969.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 69-3732; Filed, Mar. 28, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-27]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Cedar Springs, Ga., transition area.

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

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

The Cedar Springs transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Great Northern Airport; within 2 miles each side of the Dothan VORTAC 110° radial, extending from the 5-mile radius area to 15 miles east of the VORTAC.

The proposed transition area is required for the protection of IFR operations at Great Northern Airport. A prescribed instrument approach procedure to this airport, utilizing the Dothan VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on March 21, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-3733; Filed, Mar. 28, 1969; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-29]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Centerville, Tenn., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Memphis Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 18097, Memphis, Tenn. 38118. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

The Centerville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Centerville Municipal Airport; within 2 miles each side of the Graham, Tenn., VOR 177° radial, extending from the 5-mile radius area to 8 miles south of the VOR.

The proposed transition area is required for the protection of IFR operations at Centerville Municipal Airport. A

prescribed instrument approach procedure to this airport, utilizing the Graham VOR, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on March 21, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-3734; Filed, Mar. 28, 1969; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18345; RM-1236]

FM BROADCAST STATIONS

Table of Assignments, Bay Shore, N.Y.; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations (Bay Shore, N.Y., Lake Havasu City, Ariz., Eupora, Miss., Sledge, Miss., South Haven, Mich., Marksville, La., Waverly, Tenn., Livermore and Hayward, Calif., North East, Pa., Lawrenceburg, Ky., and Bardstown, Ky.); Docket No. 18345; RM-1236, RM-1320, RM-1321, RM-1322, RM-1325, RM-1327, RM-1328, RM-1329, RM-1331, RM-1333, RM-1334, RM-1336.

1. In a notice of proposed rule making, released October 4, 1968, in this proceeding (FCC 68-995), the Commission invited comments on a number of proposals to amend the FM Table of Assignments, including the assignment of Channel 276A to Bay Shore, N.Y. The time for filing comments was designated as November 12, 1968, and that for replies as November 22, 1968. Subsequent extensions have been granted for the filing of reply comments, the present date being March 24, 1969.

2. On March 19, 1969, WGLI, Inc. (proponent of above assignment) filed a request for an extension of time to and including April 3, 1969, in which to file reply comments. WGLI, Inc., states that in addition to continuing the investigations and studies mentioned in the previous requests, it also has in the past few weeks retained the services of a Bay Shore law firm to prepare the showings to be made in the rebuttal concerning the Fire Island National Seashore Act, etc., as grounds for denial of this proposal. It further states that the Annual Convention of the National Association of Broadcasters will require the presence of Washington counsel and work with other clients who also will attend. It therefore finds it necessary to request a further extension to and including April 3, 1969, in which to file reply comments. Counsel for WTFM, Inc., has consented to a grant of this request.

3. We are of the view that the requested additional time is warranted and would serve the public interest. *Accordingly, it is ordered*, That the time for filing reply comments in this proceeding in the matter of RM-1236 only is extended to and including April 3, 1969. However, since several requests for extension of time for filing reply comments have been complied with in the past, no further extensions will be granted.

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 § 0.281(d)(8) of the Commission's rules.

Adopted: March 25, 1969.

Released: March 26, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 69-3773; Filed, Mar. 28, 1969; 8:50 a.m.]

[47 CFR Part 91]

[Docket No. 18406; FCC 69-290]

FREQUENCY COORDINATION IN BUSINESS RADIO SERVICE

Memorandum Opinion and Order Regarding Filing of Comments

In the matter of amendment of Part 91 of the Commission's rules to require frequency coordination in the Business Radio Service, Docket No. 18406; petition of Central Station Electrical Protection Association, and controlled companies, American District Telegraph Co. and Baker Industries, Inc., to amend Part 91 of the Commission's rules to establish an Industrial Protection Radio Service and to require coordination of frequencies allocated to the Central Station Protection Industry, RM-1267; petition of National Association of Business and Educational Radio, Inc. (NABER), to amend § 91.8 of the Commission's rules to require frequency coordination for applications requesting assignment of frequencies in the 450-470 MHz band allocated for use in the Business Radio Service, RM-1302.

1. We have before us for consideration comments filed in the above-captioned proceeding by Aeronautical Radio, Inc. (ARINC); jointly, by the Central Station Electrical Protection Association, the Controlled Companies, American District Telegraph Co. and Baker Industries, Inc. (hereinafter referred to collectively as "CESPA"); Florida Security Systems, Inc. (Florida Security); Special Industrial Radio Service Association, Inc. (SIRSA); and the National Association of Business and Educational Radio, Inc. (NABER).

2. In its comments, NABER requests special relief, asking that we issue a "Further Notice of Proposed Rule Making" to clarify the scope of the matters encompassed by items (4) and (5) in paragraph 13 of our December 12, 1968, notice of proposed rule making (FCC 68-1179),[1] and extend the time for filing comments and replies to permit interested persons to address themselves with greater particularity to these two points.[2] SIRSA supports NABER's requests, but also asks that the time for filing comments be extended on all aspects of the proceeding relating to establishment of frequency coordination in the Business Radio Service, except those pertaining to the air terminal and central protection frequencies. These pleas are disposed of in accordance with our opinion herein.

3. The clarification which NABER requests is directed to our requests for information at items (4) and (5) of paragraph 13 of our notice. In item (4), we sought to have interested parties give us their views as to the way in which a frequency advisory committee in the Business Radio Service would or should formulate its recommendation as to "the specific frequency which in the opinion of the committee will result in the least amount of interference to existing stations operating in the particular area."[3] In this connection, we were specific, asking the parties to give us their suggestions on: (a) How coordination should and would be performed; (b) what they believed should be the criteria for a favorable or an unfavorable recommendation; (c) the procedures to be followed in the selection of the "optimum" frequency (the one, that is, which would result in the least amount of interference to existing stations in the area); and (d) the disposition that should or would be made of controversial (disputed) requests, where, for example, the coordinator does not favor the frequency specified by the applicant.

4. As to item (5), we asked, in substance, whether it was contemplated that each coordination request would be examined on an engineering basis, and, if this is to be the case, whether the coordinators would take into account such things as the technical parameters of a proposed system (that is, the input power to the final stage of RF amplification, antenna height and efficiency, and the effective radiated power of the station) in fitting each new operation into the existing technical environment.

5. We have reviewed these items in the light of NABER's comments and find them sufficiently clear. We see no basis for NABER's observation that the matters set forth at item (5) carry with them the inference that the services of professional engineers will be needed to

[1] Our notice was published in the FEDERAL REGISTER on Dec. 21, 1968, 33 F.R. 19087.

[2] NABER also asks us to sever and finalize that part of this proceeding that concerns itself with the establishment of frequency coordination requirements for the central protection and air terminal industries. In their comments, ARINC and CESPA advance similar requests. These matters will be considered separately at a later date.

[3] See § 91.8(a)(3) of the rules which sets out this norm for required coordination in the Industrial Radio Services, where in force.

make a complete and intensive study of each coordination request. There, we merely ask to what degree technical considerations would play a part in the coordination process. If none, then the appropriate response would be simply, "none." If considered at all, then we want to know to what degree, i.e., what technical factors are to be taken into account and how this is to be done—by whom (a technician, or engineer or a person with other qualifications) and in what manner.

6. As to item (4), NABER finds ambiguity in the phrases and terms: "favorable" and "unfavorable" recommendations; "optimum" frequencies; and "controversial requests." It feels the use of this wording indicates a concept of coordination that differs from our present policies as to existing committees. To a limited extent, we have amplified our intent as to these phrases and terms, above; however, we find no justification or need for further clarification by way of the "Further Notice of Proposed Rule Making" NABER asks. In passing, we note that the frequency coordinator's recommendation would be advisory only. There should be no confusion at all on this point. That concept does not, nor could it, change. Here, we merely ask what plans exist, if any, for handling disputed ("controversial") requests. Will they be automatically referred to the Commission for consideration? Will the coordinator's recommendation accompany them? Or, prior to referral, is it planned to negotiate the differences between the parties? And, if so, what steps are contemplated in accomplishing this?

7. In the foregoing respects, then, we indicate our areas of interest under items (4) and (5). Since we believe it is important to have the full views of all interested persons on all aspects of this rule making and because a reasonable extension of time to permit interested parties to respond to points on which there may have been some confusion would appear to prejudice no one, we are disposed to grant NABER's plea in this regard. This being so, and because SIRSA has indicated it has meaningful data to present on the other aspects of the rule making pertaining to frequency coordination in the Business Radio Service, except those relating to the air terminal and central protection frequencies, we believe the interests of all concerned would be served by permitting SIRSA, and other interested persons, to file comments and replies within the time limits we specify below for such purpose and in response to NABER's request.

Accordingly, consistent with the views expressed in the opinion above: *It is ordered*, That, the time for filing comments as to those aspects of the proceeding pertaining to the establishment of frequency coordination requirements in the Business Radio Service, except those relating to the air terminal and central protection frequencies, is extended to April 14, 1969, with replies to be filed on or before April 28, 1969, and that the request for "Further Notice of Proposed Rule Making," for clarification purposes, is denied.

Adopted: March 21, 1969.

Released: March 25, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-3774; Filed, Mar. 28, 1969; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 504]

[Docket No. 69-6]

COLLECTION, COMPROMISE, AND TERMINATION OF ENFORCEMENT CLAIMS

Rescheduling of Filing Dates

At the request of counsel, and good cause appearing, time within which comments may be filed in this proceeding is enlarged to and including April 25, 1969. Reply of Hearing Counsel shall be filed on or before May 12, 1969. Answers to Hearing Counsel's reply may be filed on or before May 22, 1969.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 69-3767; Filed, Mar. 28, 1969; 8:49 a.m.]

[4] Commissioners Bartley and Robert E. Lee absent; Commissioner Johnson concurring in the result.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 5641; Survey Group 151]

FLORIDA

Notice of Filing of Plat of Survey

1. The plat of survey of the following described lands, accepted February 10, 1969, will be officially filed in this office effective at 10 a.m. on May 1, 1969:

TALLAHASSEE MERIDIAN, FLORIDA

T. 11 S., R. 9 E.,
Tract 37, sec. 23;
Tract 38, secs. 23, 24, 25, 26;
Tract 39, sec. 25.

The tracts described aggregate 127.39 acres.

2. These island tracts, known as Pepperfish Keys, in the Gulf of Mexico, were omitted from the original survey of 1826. The formations are in all regards similar to the opposing mainland with an elevation from 0 to 4 feet above sea level. The soil is sandy loam with considerable organic matter therein. There is no evidence of improvements, present use or occupancy of the islands.

3. The character of each of the islands and timber growth thereon attest to their existence prior to 1845, the year Florida was admitted into the union. The islands are over 50 percent swamp in character within the interpretation of the Swamp and Overflow Act of September 28, 1850 (9 Stat. 510). Title to the lands inured to the State of Florida as of that date, and the lands are therefore open only to application by the State of Florida under the 1850 act. They will not be open to any applications for use or disposition under the public land laws, including the mining and mineral leasing laws.

4. All inquiries relating to these lands should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DORIS A. KOIVULA,
Manager.

MARCH 25, 1969.

[F.R. Doc. 69-3746; Filed, Mar. 28, 1969; 8:48 a.m.]

Office of the Secretary

[Order 2508, Amdt. 82]

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority With Respect to Funds and Fiscal Matters

Order 2508, as amended, is further amended in section 11 by the revision of paragraph (l), to read as follows:

SEC. 11. *Funds and fiscal matters.* The Commissioner may exercise the authority of the Secretary in relation to the following classes of matters:

* * * * *

(l) The deposit of tribal and individual trust funds in banks, and/or the investment of these funds in public debt obligations of the United States, and in bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, as provided by the act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and the investment of funds of Osage Indians as provided by section 4 of the act of March 3, 1921 (41 Stat. 1250), and section 1 of the act of February 27, 1925 (43 Stat. 1008–1009).

* * * * *

RUSSELL E. TRAIN,
Under Secretary of the Interior.

MARCH 24, 1969.

[F.R. Doc. 69-3717; Filed, Mar. 28, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

UPLAND COTTON

Notice of Referenda on Out-of-County Transfers by Sale or Lease of 1970 Farm Acreage Allotments

Notice is hereby given that individual county referenda pursuant to section 344a(b)(ii) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1344b(b)(ii)) on the question of transfers out-of-county but within the same State by sale or lease of upland cotton allotments to take effect in 1970 shall be conducted by mail ballot during the period May 5–9, 1969, each inclusive, in accordance with Part 717 of Chapter VII (33 F.R. 18345; 7 CFR Part 717) in each county receiving upland cotton allotments for the 1969 crop as set forth in § 722.471 (33 F.R. 17754).

Since the record of each transfer of allotment is required under section 344a of the act to be filed with the county committee only during the period beginning June 1, and ending December 31, it is desirable to determine prior to the beginning of such period which counties will permit out-of-county transfers of upland cotton allotments so that farmers may make arrangements for transfers to take effect during 1970. Section 344a of the act provides that these referenda shall be held in conjunction with the upland cotton marketing quota referendum, insofar as practicable. It is not practicable to proclaim an upland cotton national marketing quota for the 1970 crop under section 342 of the act prior to June 1, 1969. The national marketing quota referendum under section 343 of the act cannot be held until the quota has been proclaimed. Accordingly, it is hereby determined to be impracticable to hold the out-of-county transfer referenda in conjunction with the 1970 national marketing quota referendum.

Signed at Washington, D.C., on March 25, 1969.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 69-3771; Filed, Mar. 28, 1969; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 385; File No. 22(68)-13]

CEPEHA HANDELMAATSCHAPPIJ N.V.

Notice of Related Party Determination; Correction

In the matter of Cepeha Handelmaatschappij N.V., 55B Witte De With Street, Rotterdam, The Netherlands.

In F.R. Doc. 69-3437, filed March 21, 1969, appearing on pages 5554–5555, in the issue of the FEDERAL REGISTER dated Saturday, March 22, 1969, the following line was omitted from the first sentence, "against Petrus J. Rombouts doing business". The first sentence should read as follows:

An order dated November 6, 1968, effective as of November 12, 1968, was entered by the Office of Export Control, Bureau of International Commerce, against Petrus J. Rombouts, doing business as Rombouts Electrics of Rotterdam, The Netherlands, denying him all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data for a period of 5 years.

BERNARD D. LEVINSON,
Compliance Commissioner, Bureau of International Commerce.

MARCH 24, 1969.

[F.R. Doc. 69-3743; Filed Mar. 28, 1969; 8:48 a.m.]

Business and Defense Services Administration

AGRICULTURAL RESEARCH SERVICE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section

6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00457-33-46040. Applicant: U.S. Department of Agriculture, ARS, Southern Administrative Division, 701 Loyola Avenue, New Orleans, La. 70150. Article: Electron Microscope, Model HU-11E-2 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The electron microscope will be used for: (1) ultrastructure studies of pathogens of mosquitoes and other medically important insects including studies of the chemical, physical, and pathologic changes which occur at the cellular and subcellular level of such infected insects; (2) investigations of the cyclic development of viral, bacterial, fungal, and protozoal organisms pathogenic to mosquitoes and other medically important arthropods; (3) ultrastructure studies of digestive and reproductive tissues of insects in relation to the effects of treatments with insecticides, chemosterilants, and ionizing radiation; (4) studies concerning physiologic changes at the subcellular level due to neurosecretory activity and hormone production in relation to behavioral responses and pheromone production, and metabolism studies at the subcellular level utilizing ultrastructure and autoradiography techniques; and (5) cytologic studies of chromosomes, microsomes, and other chromosomal bodies in relation to investigations of the genetics of mosquitoes. Application received by Commissioner of Customs: March 6, 1969.

Docket No. 69-00459-86-01110. Applicant: Georgia Institute of Technology, 225 North Avenue NW., Atlanta, Ga. 30332. Article: Electronic control unit for an Automatic Amino Acid Analyzer. Manufacturer: Nuclear Research Establishment (Julich), West Germany. Intended use of article: The article will be used for the automation of high resolution-high sensitivity ion exchange chromatography of amino acids. The article is a part of a self-constructed amino acid analyzer, which uses microbore ion exchange columns and a high sensitivity photometer equipped with a micro flow cell. Application received by Commissioner of Customs: March 11, 1969.

Docket No. 69-00460-33-79300. Applicant: Veterans' Administration Hospital, 3495 Bailey Avenue, Buffalo, N.Y. 14215. Article: Multi-channel stethoscope, Type 16100. Manufacturer: Amplivox Exports Limited, U.K. Intended use of article: The article will be used in group teaching of third and fourth year medical students specializing in cardiology. The objective is to teach the students to recognize and differentiate between the various heart sounds, using their personal stethoscopes through the artificial chests which are simulated by rubber diaphragms incorporated in the multichannel stethoscope. The multichannel stethoscope is actually an artificial chest. Application received by Commissioner of Customs: March 11, 1969.

Docket No. 69-00461-33-46040. Applicant: The University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. Article: Electron Microscope, Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to enhance and extend a research program on molecular organization of cell membranes and derivatives, as well as in space molecular biology. The article will also be used for combined electron microscopy and microchemical studies. Application received by Commissioner of Customs: March 11, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[FR. Doc. 69-3701; Filed, Mar. 28, 1969; 8:45 a.m.]

CARNEGIE-MELLON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00231-65-46070. Applicant: Carnegie-Mellon University, Mellon Institute, 4400 Fifth Avenue, Pittsburgh, Pa. 15213. Article: Scanning electron microscope, Model JSM-2. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used by five engineering departments deeply concerned with materials research. Collectively, this work ranges from studies of the relation between atomic and microstructure and mechanical properties, to application of solid state physics, to the production of improved semiconductors. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States and was available to the applicant within a reasonable delivery time as defined in § 602.1(f)(2) of above-cited regulations. Reasons: At the time the applicant decided to purchase the foreign article, the only scanning electron microscope being manufactured in the United States was the Model SM-1 manufactured by the K Square Corp. (K Square), which provided a guaranteed resolution of 500 angstroms. The guaranteed resolution of the foreign article is 250 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolution.) In addition, the foreign article provided continuously variable accelerating voltages up to 50 kilovolts, whereas the K Square Model SM-1 provided accelerating voltages up to 30 kilovolts. We have been advised by the National Bureau of Standard (NBS) that for the purposes for which the foreign article is intended to be used, the best attainable resolution and the widest available accelerating-voltage range are pertinent characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured at the time the applicant decided to place the order for the foreign article.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-3700; Filed, Mar. 28, 1969; 8:45 a.m.]

Maritime Administration

[Report 95]

LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through March 20, 1969, exclusive of those vessels that called at Cuba on U.S. Government-approved noncommercial voyages and those listed in section 2. Pursuant to established U.S. Government policy, the listed vessels are

ineligible to carry U.S. Government-financed cargoes from the United States.

Flag of Registry and Name of Ship	Gross tonnage
Total, all flags (177 ships)	1,264,836
British (48 ships)	385,706
Antarctica	8,785
Arctic Ocean	8,791
Athelcrown (tanker)	11,149
Athellaird (tanker)	11,150
Athelmere (tanker)	7,524
Athelmonarch (tanker)	11,182
Avisfaith	7,868
Baxtergate	8,813
Changpaishan	8,929
Cheung Chau	8,566
Chiang Kiang	10,481
East Sea	9,679
Eastfortune	8,789
Eastglory	8,995
Fortune Enterprise	7,696
Hemisphere	8,718
Ho Fung	7,121
Huntsland	9,353
Huntsville	9,486
Inchstuart	7,043
**Jeb Lee (trip to Cuba under ex-name Garthdale—British)	7,542
Jollity	8,819
**Kali Elpis (trip to Cuba under ex-name Ardmore—British)	4,664
**Kelso (trip to Cuba under ex-name Ardgem—British)	6,981
Kinross	5,388
Magister	2,239
**Meadow Court (trip to Cuba under ex-name Ardrosamore—British)	5,820
Nancy Dee	6,597
Nebula	8,907
Newglade	7,368
Newheath	7,643
Newmoat	7,151
Oceantramp	6,185
Oceantravel	10,419
Peony	9,037
Red Sea (previous trip to Cuba under ex-name Grosvenor Mariner—British)	7,026
**Rosetta Maud (trips to Cuba under ex-name Ardtara—British)	5,795
Ruthy Ann	7,361
Sea Amber	10,421
Sea Coral	10,421
Sea Empress	9,841
Seasage	4,330
**Shun Wah (trip to Cuba under ex-name Vercharmian—British)	7,265
Southgate (previous trips to Cuba under ex-name Arlington Court—British)	9,662
**Tetrarch (trips to Cuba under ex-name Ardrowan—British)	7,300
Venice	8,611
Vergmont	7,381
Yunglutaton	5,414
Cypriot (39 ships)	288,736
Acme	7,173
Aegis Hope (previous trips to Cuba under ex-name Huntsmore—British)	5,678
Akmeon (tanker)	11,105
Alda	7,292
Alice (previous trips to Cuba—Greek)	7,189
Amfithea (previous trip to Cuba under ex-name Antonia—Greek)	5,171
Angeliki	8,482
Anka	7,314
Antonia II (previous trip to Cuba under ex-name Stylianos N. Vlassopulos—Greek)	7,281
Apollonian	7,229
Areti (previous trips to Cuba—Lebanese)	7,176
Captain Papalios (tanker)	11,676
Claire (previous trips to Cuba—Lebanese)	5,411
*Coolady	2,867
Degedo	9,000
Dolphin	3,550
Dorine Papalios (previous trips to Cuba under ex-name Formentor—British)	8,424
E. D. Papalios	9,431
El Toro	5,949
Free Navigator (previous trips to Cuba under ex-name Newdene—British)	7,165
Free Trader (previous trips to Cuba—Lebanese)	7,061
*Glee	7,237
Huntsfield (previous trips to Cuba—British)	9,483
Johnny	9,689
Katerina (previous trips to Cuba—Lebanese)	9,357
**Kounistra (trips to Cuba under ex-names Nicolaos Frangistas and Nicolaos F.—Greek	7,199
Marika (previous trip to Cuba—Lebanese)	7,290
Mery (previous trips to Cuba—Greek)	7,258
Newforest (previous trips to Cuba—British)	7,189
Newgate (previous trips to Cuba—British)	6,743
**Newlane (trips to Cuba—British)	7,043
Newmoor (previous trips to Cuba—British)	7,168
Olga (previous trips to Cuba—Lebanese and Greek)	7,265
Protokilitos	6,154
Suerte	7,267
Sunrise (previous trips to Cuba under ex-name Anatoli—Greek)	7,216
Tina (previous trips to Cuba—Greek)	7,362
Vassiliki (previous trips to Cuba—Lebanese)	7,192
Venturer	9,000
Polish (21 ships)	150,590
Baltyk	6,984
Bialystok	7,173
Bytom	5,967
Chopin	9,231
Chorzow	7,237
Energetyk	10,876
Grodziec	3,379
Huta Florian	7,258
Huta Labedy	7,221
Huta Ostrowiec	7,179
Huta Zgoda	6,840
Hutnik	10,847
Kopalnia Bobrek	7,221
Kopalnia Czladz	7,252
Kopalnia Miechowice	7,223
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Narwik	7,065
Piast	3,184
Rejowiec	3,401
Transportowiec	10,854
Lebanese (12 ships)	84,610
Antonis	6,259
Astir	5,324
Atticos	7,257
Ciannis	5,270
Giorgos Tsakirogiou	7,240
Ilena	5,925
Marichristina	7,124
Mousse	9,307
Noelle	7,251
Tony	7,176
Toula	6,426
Yanxilas	10,051
Greek (11 ships)	73,531
**Aliartos (trip to Cuba under ex-name Loradore—British)	8,078
Andromachi (previous trips to Cuba under ex-name Penelope—Greek)	6,712
**Anna Maria (trips to Cuba under ex-name Heika—British)	2,111
Barbarino	7,084
Eftyhia	9,844
**Gold Land (trip to Cuba under ex-name Amfred—Swedish)	2,838
Irena	7,232
**Lambros M. Patsis (trips to Cuba under ex-name La Hortensia—British)	9,486
**Parabos (trip to Cuba under ex-name Agios Therapon—Greek)	7,205
Redestos	5,911
Sophia	7,030
Panamanian (7 ships)	45,065
**Ampuria (trips to Cuba under ex-name Roula Maria—Greek)	10,608
**Avranchoise (trips to Cuba under ex-name Avranches—French)	7,199
**Chung Thai (trip to Cuba under ex-name Somalia—Italian)	3,352
**Renown Trader (trips to Cuba under ex-name Suva Breeze—British)	4,996
**Robertina (trips to Cuba under ex-name Anacreon—Greek)	6,935
**Tynlee (trip to Cuba under ex-name Ardenode—British)	7,036
**Yu Lee (trips to Cuba under ex-name Dairen—British)	4,939
Yugoslav (7 ships)	46,150
Agrum	2,449
Bar	8,776
Kolasin	7,217
Piva	7,519
Plod	3,657
Subicevac	9,033
Tara	7,499
French (6 ships)	19,316
**Atlanta (trip to Cuba under ex-name Enee—French)	1,232
Circe	2,874
Foulaya	3,739
Mungo	4,820
Nelee	2,874
Penja	3,777
Somali (6 ships)	37,746
Aragon	7,248
Aria	5,059
**Atlas (trip to Cuba—Finnish)	3,916
Erato (previous trips to Cuba under ex-name Eretria—Greek)	7,199
Stevo (previous trips to Cuba—Lebanese)	7,066
Thios Costas	7,258
Italian (4 ships)	33,275
Elia (tanker)	11,021
San Francesco	9,284
Santa Lucia	9,278
Somalia	3,692

See footnotes at end of document.

Flag of Registry and Name of Ship	Gross tonnage
Moroccan (4 ships)	32,746
Atlas	10,392
Marrakech	3,214
Mauritanie	10,392
Toubkal	8,748
Finnish (3 ships)	20,966
Augusta Paulin	7,096
Ragni Paulin	6,823
Verna Paulin	7,047
Maltese (3 ships)	19,793
Ispahan	7,169
Soclyve (previous trips to Cuba—British)	7,291
Timios Stavros (previous trips to Cuba—British and Greek)	5,333
Netherlands (2 ships)	1,615
Meike	500
Tempo	1,115
Guinean (1 ship)	852
**Drame Oumar (trip to Cuba under ex-name Neve—French)	852
Japanese (1 ship)	8,627
Chokyu Maru	8,627
Pakistani (1 ship)	8,708
**Maulabaksh (trip to Cuba under ex-name Phoenician Dawn and East Breeze—British)	8,708
Singapore (1 ship)	6,854
**Rama Leemana (trip to Cuba under ex-name Glaisdale—British)	6,854

SEC. 2. In accordance with approved procedures, the vessels listed below which called at Cuba after January 1, 1963, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuban trade so long as it remains the policy of the U.S. Government to discourage such trade; and

(b) That no other vessel under their control will thenceforth be employed in the Cuban trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuban trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

Flag of Registry and Name of Ship	Gross tonnage
a. Since last report: None.	
b. Previous reports:	
Flag of registry (total)	124
British	44
Cypriot	3
Danish	1
Finnish	4
French	1
German (West)	1
Greek	30
Israeli	1
Italian	13
Japanese	1
Kuwaiti	1
Lebanese	9
Liberian	1
Norwegian	5
Somali	1
Spanish	6
Swedish	1
Yugoslav	1

SEC. 3. The following number of vessels have been removed from this list, since they have been broken up, sunk, etc.

a. since last report:

	Gross tonnage
Aiolos II (Cypriot)	7,256
b. Previous reports:	
Flag of registry:	Broken up, sunk or wrecked
British	15
Cypriot	17
Finnish	2
French	1
Greek	13
Italian	4
Lebanese	31
Maltese	2
Monaco	1
Moroccan	1
Norwegian	1
Pakistan	1
Panamanian	2
South African	2
Swedish	1
Yugoslav	6
Total	100

SEC. 4. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through March 20, 1969.

Flag of registry	Number of trips											Total
	1963	1964	1965	1966	1967	1968			1969			
						Jan. thru Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	
British	133	180	126	101	78	53	5	4	2	1		683
Lebanese	64	91	58	35	16	13	1	2			1	271
Greek	99	27	23	27	29	6		1				212
Cypriot		1	17	27	42	57	4	7	6	7	2	170
Italian	16	20	24	11	11	8		2	1	1		94
Yugoslav	12	11	15	10	14	7	1	1				71
French	8	9	9	10	10	3	1		1		1	52
Finnish	1	4	5	11	12	6	2					41
Spanish	8	17										25
Norwegian	14	10										24
Moroccan	9	13	1									23
Maltese		2	6	1	4	7		1				21
Somali					2	8	1	2	1	1		15
Netherlands		4	2									6
Swedish	3	3										6
Kuwaiti		2	1									3
Israeli			2									2
Japanese	1					1						2
Danish	1											1
German (West)	1											1
Haitian			1									1
Monaco				1								1
Subtotal	370	394	290	224	218	169	15	20*	11	10	4	1,725
Polish	18	16	12	10	11	7						74
Grand total	388	410	302	234	229	176	15	20	11	10	4	1,799

NOTE: Trip totals in this section exceed ship totals in sections 1 and 2 because some of the ships made more than 1 trip to Cuba. Monthly totals subject to revision as additional data becomes available.

*Added to Rept. 94, appearing in the FEDERAL REGISTER issue of March 4, 1969.

**Ships appearing on the list which have made no trips to Cuba under the present registry.

Dated: March 24, 1969.

By order of the Acting Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 69-3751; Filed, Mar. 28, 1969; 8:45 a.m.]

PUBLIC INFORMATION

Delegations of Authority; Withdrawal of Notices

Since part "E *Final delegations of authority*" in Appendix A—Public Information [Department of Commerce Order 117-B] (32 F.R. 12864, Sept. 8, 1967) advises of the availability of all redelegations of authority for inspection and copying in the Office of Public Information (see also 46 CFR 380.33), notice is

hereby given that the Maritime Subsidy Board and the Maritime Administrator are hereby withdrawing those notices appearing in F.R. Docs. 62–10543 (27 F.R. 10335, 10/23/62); 62–10674 (27 F.R. 10419, 10/25/62); 63–12179 (28 F.R. 12330, 1/21/63); 63–3241 (28 F.R. 3059, 3/28/63); 63–3912 (28 F.R. 3875, 4/13/63); 63–4323 (28 F.R. 4040, 4/24/63); 66–542 (31 F.R. 542, 1/15/66); 66–668 (31 F.R. 770, 1/20/66); 66–1632 (31 F.R. 2786, 2/16/66); 66–4725 (31 F.R. 6551, 4/30/66); 67–7936 (32 F.R. 10221, 7/11/67).

By order of the Maritime Subsidy Board and Maritime Administrator.

Dated: March 27, 1969.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 69–3847; Filed, Mar. 28, 1969; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

COMBINATION DRUGS CONTAINING OXALIC ACID AND MALONIC ACID OR THEIR ETHYL ESTERS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following drugs marketed by Chatham Pharmaceuticals, Inc., 901 Broad Street, Newark, N.J. 08102:

1. Koagamin Parenteral Hemostat; contains per cubic centimeter 5 milligrams of oxalic acid and 2.5 milligrams of malonic acid (NDA No. 1 and 4336).

2. Koagamin Dental Sublingual Hemostat; contains per 4 minim unit 0.0324 gram of ethyl oxalate and 0.0154 gram of ethyl malonate.

The Food and Drug Administration concludes that:

1. There is a lack of substantial evidence that Koagamin Parenteral Hemostat is effective for any of the claims made in its labeling; that is, for use as a systemic hemostatic agent, for the prophylaxis and control of capillary and venous bleeding that may occur with exodontia, for control of venous capillary bleeding in general surgery, for profuse hemorrhage secondary to accidental trauma, for profuse hemorrhages, minor hemorrhages, post partum hemorrhage, and hemorrhagic diathesis.

2. Koagamin Dental Sublingual Hemostat lacks substantial evidence of effectiveness for its labeled indication: To reduce bleeding and seepage following extractions, immediate dentures, and oral surgery. No new-drug application has been approved or is deemed approved for this dosage form. Since the drug is not effective for its labeled indications, it is regarded as misbranded and as a new drug for which there is no approved new-drug application and accordingly subject to regulatory proceedings if shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the new-drug applications for the drug Koagamin Parenteral Hemostat.

Prior to initiating such action, however, the Commissioner invites that holder of the new-drug applications for this drug, and any interested person who may be adversely affected by removal of this drug from the market, to submit any pertinent data bearing on the proposal within 30 days following the date of publication of this announcement in the FEDERAL REGISTER.

This announcement of the proposed action and implementation of the NAS–NRC report for Koagamin Parenteral Hemostat is made to give notice to persons who might be adversely affected by withdrawal of this drug from the market. Promulgation of an order withdrawing approval of the new-drug applications will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new-drug applications for Koagamin Parenteral Hemostat has been mailed a copy of the NAS–NRC reports. Any interested person may obtain a copy of the reports on oxalic acid and malonic acid or their ethyl esters by a request to the office named below.

Communications forwarded in response to this announcement should be directed to the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS–NRC report: Press Relations Office (CE–300).

Comments or data regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD–16), Bureau of Medicine.

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

Dated: March 25, 1969.

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

[F.R. Doc. 69–3715; Filed, Mar. 28, 1969; 8:46 a.m.]

ELANCO PRODUCTS CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of the antibiotic substance monensin in combination with 3-nitro-4-hydroxyphenylarsonic acid in chicken feeds as an aid in the prevention of coccidiosis, for growth promotion and feed efficiency, and for improved pigmentation.

Dated: March 21, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69–3716; Filed, Mar. 28, 1969; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–250, 50–251]

FLORIDA POWER & LIGHT CO.

Notice of Amendment of Provisional Construction Permits

Please take notice that pursuant to a supplemental initial decision of the Atomic Safety and Licensing Board dated February 27, 1969, the Director, Division of Reactor Licensing has issued Amendment No. 1 to Construction Permits Nos. CPPR–27 and CPPR–28 amending paragraph 1 of each permit to read as follows:

1. Pursuant to section 104b of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter I, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a provisional construction permit to Florida Power & Light Co. (the Applicant) for a utilization facility (the facility), described in the application and amendments thereto filed in this matter by the Applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Turkey Point Nuclear Generating Unit No. 3, (4), will be located at Turkey Point, Dade County, Fla., about 25 miles south of Miami, Fla.

A copy of the Atomic Safety and Licensing Board's Supplemental Initial Decision is on file in the AEC Public Document Room at 1717 H Street NW., Washington, D.C., where it may be inspected by interested persons.

Dated at Bethesda, Md., this 24th day of March 1969.

For the Atomic Energy Commission.

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

[F.R. Doc. 69–3699; Filed, Mar. 28, 1969; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18505; FCC 69-288]

INTERNATIONAL EXCHANGE OF TELEVISION PROGRAMS

Notice of Inquiry Regarding Possible Change in Certain Signal Specifications

In the matter of inquiry into possible change in certain TV signal specifications contained in §§ 73.682 and 73.699 of the rules to facilitate international program exchange; Docket No. 18505.

1. The purpose of this inquiry is to examine the possibility of adoption of more uniform technical specifications for television broadcast signals to facilitate the international exchange of programs by satellite and other means.

2. It appears desirable that the United States, and other countries using 525 line television standards, similar to those contained in §§ 73.682 and 73.699 of our rules, agree to assign particular television scanning lines during the vertical blanking interval for transmission of signals for testing the performance of international circuits. The waveforms of these signals should preferably be the same for all countries, and they would be in addition (and similar in function) to those already in use in the United States and other countries for testing the performance of national distribution networks. As provided for in § 73.682(a)(21), test signals have come into everyday use by the major broadcast network companies, in cooperation with the American Telephone & Telegraph Co. and individual television stations affiliated with the networks, for the purpose of measuring during program time the quality of signals transmitted through the nationwide network. The Network Transmission Committee, a group composed of representatives of the major TV networks and the American Telephone & Telegraph Co., have agreed upon the vertical interval test signal specifications which are in use. They have also agreed upon levels of degradation of the test signals, resulting from transmission through common carrier networks, which levels are to be used as the bases for reporting needs for corrective action. The use of these test signals has resulted in significant improvements in network transmission performance, and hence in the technical quality of TV signals radiated to the general public. Future improvements may reasonably be expected as test signals are further developed to measure more completely the characteristics of color video signals.

3. To facilitate the choice of particular scanning lines for international test signals, we consider that signals for testing national distribution networks should be transmitted on the same scanning lines in different countries using similar standards. Japan uses lines 17 and 18 for this purpose, whereas in the United States and Canada, networks are using lines 18 and 19.

4. A particular question which could affect existing rules is the matter of selection of specific lines for international test signals. Because of different practices in some countries, it may become necessary to place the international test signals on scanning lines which are not presently permitted by § 73.682(a)(21). It will be recalled that the terms of this section were based in part on a report by an E.I.A. receiver committee, which pointed out that in 1957 some TV sets would display test lines during their vertical retrace periods if the test signals occupied any time before the last 12 microseconds of line 17. Since that time the trend in receiver design has been to equip receivers with vertical retrace blanking. Today it appears that most new sets have this feature, which tends to make them immune to signals transmitted on earlier lines. Further, by the time required to reach international agreement and to implement the outcome by necessary domestic rule-making, it may be anticipated that only a small percentage of receivers will be of types affected by test signals transmitted on earlier lines. We invite comments and evidence relating to the possibility of transmission of test signals on lines other than those now permitted in § 73.682(a)(21) of the rules.

5. In addition to the above, it should be noted that although countries using C.C.I.R. 525 line standards have the same basic scanning standards, certain of their signal specifications are different. It would appear that international compatibility in TV broadcasting could be improved if these differences were eliminated or minimized. Although we have no intention of considering variations which would have substantial adverse effects on our domestic broadcasting operations, we invite comment and evidence relating to the possibility of minor modification of § 73.682(a) (6), (12), (13), (16), (17), (18), and also § 73.699, Figures 6 and 7, to achieve greater uniformity of TV signal specifications between countries using C.C.I.R. 525 line standards.

6. We consider that the best channels through which to seek solutions of international TV technical problems are the International Radio Consultative Committee (C.C.I.R.) and the Joint Commission for Television Transmissions (C.M.T.T.). These organizations already have existing questions and study programs on these subjects. Under the supervision of the Department of State, The United States C.C.I.R. National Organization provides to U.S. interests the means to be informed of C.C.I.R. and C.M.T.T. discussions, and to assist in the formulation of U.S. proposals. Because there is active participation by FCC staff members and by representatives of groups who are engaged in most aspects of broadcasting, it is to be expected that later rule-making proceedings seeking to implement the international conclusions would be relatively simple.

7. This action is taken pursuant to section 403 of the Communications Act of 1934, as amended. Interested parties responding to this Notice of Inquiry may file comments on or before April 21, 1969, and reply comments on or before April 29, 1969. An original and fourteen copies of each response must be filed as required by § 1.419 of the Commission's rules.

Adopted: March 21, 1969.

Released: March 25, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-3775; Filed, Mar. 28, 1969; 8:50 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Congressional Liaison Officer, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3764; Filed, Mar. 28, 1969; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Administrator, Office of Interstate Land Sales Registration.

UNITED STATES CIVIL SERVICE COMPANY,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3765; Filed, Mar. 28, 1969; 8:49 a.m.]

[1] Commissioners Bartley, Robert E. Lee, and H. Rex Lee absent; Commissioner Cox concurring in the result.

DEPARTMENT OF LABOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69-3766; Filed, Mar. 28, 1969; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3620, etc.]

J. R. WELCH ET AL.

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

MARCH 21, 1969.

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

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 14, 1969.

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

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

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3620 ..... E 3-10-69	J. R. Welch (successor to Carl D. and Edith Rhyne Jackson d.b.a. Jackson Brothers), c/o J. Edward Litz, attorney, Post Office Box 1473, Charleston, W. Va. 25325.	Cabot Corp., Murphy District, Ritchie County, W. Va.	12.0	15.325
G-3621 ..... E 3-10-69	....do.....	....do.....	12.0	15.325
G-3894 ..... C 2-6-69	Atlantic Richfield Co.,[1] Post Office Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., Langlie-Mattix Field, Lea County, N. Mex.	10.00	14.65
G-4971 ..... E 3-10-69	Wm. Berl Wright, M.D. (successor to W. H. Mossor et al., d.b.a. Frederick Oil & Gas Co.), c/o J. Edward Litz, attorney, Post Office Box 1473, Charleston, W. Va. 25325.	Cabot Corp., Murphy District, Ritchie County, W. Va.	12.0	15.325
G-7223 [1] ..... C 2-5-69	Standard Oil Co. of Texas, a division of Chevron Oil Co., Post Office Box 1249, Houston, Tex. 77001.	El Paso Natural Gas Co., Langlie-Mattix and Cooper-Jal Fields, Lea County, N. Mex.	10.0	14.65
G-7535 ..... C 2-3-69	Pan American Petroleum Corp.,[1] Post Office Box 591, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Langlie-Mattix and other Fields, Lea County, N. Mex.	10.0	14.65
G-7858 ..... E 3-10-69	Oral D. Smith (successor to McIntosh and Grimm), c/o J. Edward Litz, attorney, Post Office Box 1473, Charleston, W. Va. 25325.	Cabot Corp., Sherman District, Calhoun County, W. Va.	12.5	15.325
G-9358 ..... 3-6-69 [2]	Monsanto Co. et al., 1300 Main St., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Old Ocean Field (Larsen Reservoir), Brazoria and Matagorda Counties, Tex.	14.0	14.65
G-11181 ..... C 2-4-69	Gas Gathering Corp., Post Office Box 519, Hammond, La. 70401.	Transcontinental Gas Pipe Line Corp., Bayou Des Glaise Field, St. Martin Parish, La.	22.0	15.025
G-11479 ..... C 3-7-69	Pan American Petroleum Corp. (Operator) et al.[1]	El Paso Natural Gas Co., Justis Field, Lea County, N. Mex.	[3] 10.0	14.65
G-20138 ..... C 3-6-69	Pubco Petroleum Corp., Post Office Box 869, Albuquerque, N. Mex. 87103.	El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex.	13.0	15.025
CI60-176 ..... E 3-10-69	David E. Scull (successor to Richard A. Teichman, Jr., Operator), c/o J. Edward Litz, attorney, Post Office Box 1473, Charleston, W. Va. 25325.	Cabot Corp., Burning Springs District, Wirt County, W. Va.	14.98	15.325
CI62-193 ..... E 2-24-69	Betz Oil, Inc. (Operator) et al. (successor to Occidental Petroleum Corp.), c/o Betty J. Carrillo, assistant secretary, 370 West Fourth St., Tustin, Calif. 92680.	Kansas-Nebraska Natural Gas Co., Inc., Flat Top Field, Converse County, Wyo.	13.6154	15.025
CI64-151 ..... E 3-10-69	E. A. Dawson et al. (successor to Smith & Barker Oil & Gas Co., Inc.), c/o J. Edward Litz, attorney, Post Office Box 1473, Charleston, W. Va. 25325.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	13.824	15.325
CI65-317 ..... D 2-14-69	Jack W. Grigsby (Operator) et al., 1108 Commercial National Bank Bldg., Shreveport, La. 71101 (partial abandonment).	United Gas Pipe Line Co., Southwest Bourg Field, Terrebonne Parish, La.	Depleted	.....
CI65-1159 ..... C 3-10-69	Tenneco Oil Co. et al., Post Office Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., San Juan Basin, San Juan County, N. Mex.	13.0	15.025
CI68-156 ..... C 2-24-69	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Northeast Custer City Field, Custer County, Okla.	[3] 15.082	14.73
CI69-31 ..... C 3-10-69	Mobil Oil Corp., Operator.....	Panhandle Eastern Pipe Line Co., Seiling Field, Dewey County, Okla.	[3] 18.53	14.65
CI69-495 ..... C 2-27-69	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Natural Gas Pipeline Co. of America, Lorena, West Field, Texas County, Okla.	[3] 17.0	14.65
CI69-583 ..... E 2-24-69	Prudent Resources Trust (successor to J. R. McDonald), c/o MacNaughton & McWhorter, 614 Southwest Tower, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Placedo Field, Victoria County, Tex.	[3] 15.0	14.65
CI69-591 ..... C 3-3-69	J. C. Baker & Son, Inc., Gassaway, W. Va. 26624.	Equitable Gas Co., Collins Settlement District, Lewis County, W. Va.	25.0	15.325
CI69-778 ..... (CI64-298) B 11-19-68 [3]	Riddle and Gottlieb (successor to Humble Oil & Refining Co.), c/o Harry C. Winslow, agent, Post Office Box 1178, San Antonio, Tex. 78206.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Labbe Field, Duval County, Tex.	Uneconomical	.....

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

See footnotes at end of table.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI69-780 (G-3072) F 2-17-69	Warren B. Pinney, Jr. (successor to Humble Oil & Refining Co.), Room 1208, 211 North Ervay Bldg., Dallas, Tex. 75201.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Kohler Field, Duval County, Tex.	15.0	14.65
CI69-803 A 2-26-69	Pennzoil United, Inc.,[1] 900 Southwest Towers, Houston, Tex. 77002.	Transwestern Pipeline Co., South Carlsbad Area, Eddy County, N. Mex.	[4] 16.58	14.65
CI69-804 A 2-26-69	Stetco '68, Ltd.,[1] Post Office Box 1828, Midland, Tex. 79701.	do	[3] 16.58	14.65
CI69-815 A 2-28-69	Mobil Oil Corp.	Southern Natural Gas Co., High Island Field, Cameron Parish, La.	20.0	15.025
CI69-816 A 2-28-69	do.[1]	Northern Natural Gas Co., Kermit Field, Winkler County, Tex.	[4] 16.5	14.65
CI69-821 A 3-3-69	Phillips Petroleum Co., Bartlesville, Okla. 74003.	Arkansas Louisiana Gas Co., Arkoma Area, Sequoyah and Le Flore Counties, Okla., and Franklin, Logan, and Yell Counties, Ark.	16.0	14.65
CI69-822 B 3-3-69	Pan American Petroleum Corp.	Cities Service Gas Co., Northeast Rhodes Field, Barber County, Okla.	Depleted	
CI69-823 A 3-3-69	Van Oil Co., Box 249, Beaver, Pa. 15009.	Pennsylvania Gas Co., Wetmore Township, McKean County, Pa.	27.0	15.025
CI69-824 A 3-3-69	Rogers and Scull, c/o Lendol Rogers, co-owner, Arnoldsburg, W. Va. 25234.	United Fuel Gas Co., Washington District, Calhoun County, W. Va.	25.0	15.325
CI69-825 A 3-3-69	TransOcean Oil, Inc., 2108 First City National Bank Bldg., Houston, Tex. 77002.	Trunkline Gas Co., South Timbalier Blocks 179 and 187, Offshore, Southern Louisiana.	21.25	15.025
CI69-826 A 3-3-69	Texaco, Inc.	Northern Natural Gas Co., Share Field, Hansford County, Tex.	[2] 18.53	14.65
CI69-828 B 3-3-69	Pan American Petroleum Corp.	Jernigan & Morgan Transmission Co., East Victor Field, Lincoln County, Okla.	Depleted	
CI69-829 A 3-3-69	Pan American Petroleum Corp.	Michigan Wisconsin Pipe Line Co., Boston Bayou Field, Vermilion Parish, La.	21.25	15.025
CI69-830 B 3-4-69	J. C. Trahan, Drilling Contractor, Inc., c/o Bernard A. Foster, III, Ross, Marsh & Foster, Washington, D.C. 20005.	Texas Gas Transmission Corp., West Monroe Field, Union, Ouachita, and Morehouse Parishes, La.	Uneconomical	
CI69-831 A 3-3-69	Mobil Oil Corp.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 17 Field, East Cameron Area, Offshore Louisiana.	21.25	15.025
CI69-832 A 3-3-69 [11]	do.	Texas Eastern Transmission Corp., Block 14 Field, East Cameron Area, Offshore Louisiana.	21.25	15.025
CI69-835 A 3-5-69	Sinclair Oil Corp., Post Office Box 521, Tulsa, Okla. 74102.	Diamond Shamrock Corp., Farnsworth Field, Ochiltree County, Tex.	[12] 14.0 [13] 12.0 [14] 10.0	14.65
CI69-836 (CI67-69) F 2-27-69	James W. Staples, operator (successor to James H. Helland), Post Office Box 78, Tuleta, Tex. 78162.	United Gas Pipe Line Co., Fortitude (Pettus) Field, Bee County, Tex.	14.0	14.65
CI69-837 (CI67-851) F 2-28-69	Holly Corp. (successor to Pan American Petroleum Corp.), c/o Chandler Lloyd, Biggers, Baker, Lloyd & Carver, 2909 Republic National Bank Tower, Dallas, Tex. 75201.	El Paso Natural Gas Co., Gomez Area, Pecos County, Tex.	16.5	14.65
CI69-838 A 3-6-69	Exchange Oil & Gas Co. (Operator) et al., 1200 Oil and Gas Bldg., New Orleans, La. 70112.	Gas Gathering Corp., South Klondike Field, Iberville Parish, La.	19.0	15.025
CI69-839 A 3-7-69	Brookwood Oil Co. (Operator) et al., 800 Community Insurance Center, Tulsa, Okla. 74103.	Northern Natural Gas Co., Ivanhoe Field, Beaver County, Okla.	[15] 17.0 [15] 15.0	14.65
CI69-840 A 3-6-69	Exchange Oil & Gas Co.	Southern Natural Gas Co., Dismond Field Area, Plaquemines Parish, La.	20.0	15.025
CI69-841 A 3-7-69	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	Arkansas Louisiana Gas Co., Northeast Mayfield Field, Beckham County, Okla.	[16] 18.88	14.65
CI69-842 A 3-7-69	Amerada Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Atchafalaya Bay Area, St. Mary and Terrebonne Parishes, La.	21.25	15.025

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI69-843 A 3-10-69	Pan American Petroleum Corp.	Kansas-Nebraska Natural Gas Co., Inc., Camrick Field, Texas County, Okla.	[2] 17.0	14.65
CI69-844 A 3-10-69	Crown Petroleum, Inc., 505 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Northern Natural Gas Co., Hansford (Lower Morrow) Field, Hansford County, Tex.	[2] 17.5	14.65
CI69-845 A 3-3-69	General Petroleum Corp., 1636 Denver Club Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Ignacio Area, La Plata County, Colo.	14.0	15.025
CI69-846 B 3-7-69	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	Natural Gas Pipeline Co. of America, Camrick Field, Beaver County, Okla.	Depleted	
CI69-847 B 3-10-69	Lyons & Logan (Operator), et al.	Texas Eastern Transmission Corp., Woodlawn Field, Harrison County, Tex.	[20]	
CI69-848 B 3-6-69	Viersen & Cochran, c/o Mr. Hugh F. Robinson, Post Office Box 280, Okmulgee, Okla. 74447.	Cities Service Gas Co., acreage in Grant County, Okla.	Depleted	
CI69-849 A 3-10-69	International Nuclear Corp., 420 Lincoln Tower Bldg., Denver, Colo. 80203.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Madden Field, Fremont and Natrona Counties, Wyo.	[4] 15.0	14.65
CI69-850 B 2-26-69	Union Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	United Gas Pipe Line Co., Monroe Field, Ouachita Parish, La.	Depleted	
CI69-851 A 3-6-69	Monsanto Co. et al.	Natural Gas Pipeline Co. of America, Old Ocean field (Campbell Reservoir), Brazoria and Matagorda Counties, Tex.	17.0	14.65
CI69-852 B 3-7-69	Amerada Petroleum Corp.	Panhandle Eastern Pipe Line Co., Southwest Lerado Field, Reno County, Kans.	Depleted	
CI69-854 (G-5296) F 3-10-69	Paul B. Bowser, d.b.a. Lora Oil & Gas Co. (successor to Cabot Corp.), 600 Eastlawn Ave., Parkersburg, W. Va. 26101.	Consolidated Gas Supply Corp., acreage in Roane County, W. Va.	25.0	15.325
CI69-855 B 3-7-69	Sabianna Oil Co., Inc., et al.	United Gas Pipe Line Co., Panola Field, Panola County, Tex.	Depleted	
CI69-856 B 3-10-69	Tenneco Oil Co.	El Paso Natural Gas Co., Spraberry Field, Reagan County, Tex.	[20]	
CI69-857 B 3-10-69	do.	do.	[20]	
CI69-858 A 3-10-69	Union Carbide Petroleum Corp., 270 Park Ave., New York, N.Y. 10017.	Trunkline Gas Co., South Timbalier Blocks 179 and 187, Offshore, Southern Louisiana.	21.25	15.025

[1] Applicant has agreed to accept certificate conditioned as Opinion No. 498, as modified by Opinion No. 498-A.
[2] Application to amend certificate to revise average daily contract quantity, extend the contract term and provide for price schedule to apply during extended term.
[3] Seller receives payment for liquid products recovered based on percent of value.
[4] Successor to McWood Corp. (Operator) et al. Occidental Petroleum Corp. never made filings to cover subject acreage.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Includes 1.53 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[7] Applicant has agreed to accept certificate conditioned to an initial rate of 17 cents per Mcf, plus B.t.u. adjustment.
[8] Rate in effect subject to refund in Docket No. RI67-273.
[9] Applicants propose to abandon sale of gas from acreage acquired from Humble Oil & Refining Co., Docket No. CI64-268 (Partially succeeds Humble's FPC GRS No. 341). Riddle and Gottlieb never received certificate authorization to cover subject sale.
[10] Includes 1.53 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[11] For sale and exchange of gas.
[12] At delivery pressure over 500 p.s.i.g.
[13] At delivery pressure 200 to 500 p.s.i.g.
[14] At delivery pressure below 200 p.s.i.g.
[15] Gas well gas. Subject to upward and downward B.t.u. adjustment.
[16] Casinghead gas.
[17] Includes 2.88 cents upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[18] Whenever a well is connected to Purchaser's low pressure system and the wellhead pressure is less than that of the high pressure system, Applicant shall reimburse Purchaser for cost of compression at the rate of 2 cents per Mcf.
[19] Includes 0.5 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[20] Well has been reclassified as an oil well.
[21] Lease assigned to R.P.L. Oil Co.

[F.R. Doc. 69-3571; Filed, Mar. 28, 1969; 8:45 a.m.]

[Docket No. RI69-544 etc.]

LAMAR HUNT ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

MARCH 20, 1969.

Lamar Hunt, Docket No. RI69-544, et al.; Caroline Hunt Sands, et al., Docket No. RI69-553.

In the order providing for hearings on and suspension of proposed changes in rates, issued February 19, 1969, and published in the FEDERAL REGISTER, March 1, 1969 (34 F.R. 3724), in Appendix A, page 4, Docket No. RI69-553, Caroline Hunt Sands, et al.: Under column headed "Rate Schedule No." change "15" to read "16". Under column headed "Supp. No." change "1" to read "7".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-3704; Filed, Mar. 28, 1969; 8:45 a.m.]

[Docket No. E-7472]

INTERSTATE POWER CO.

Notice of Application

MARCH 25, 1969.

Take notice that on March 20, 1969, Interstate Power Co. (Applicant), filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue and sell at competitive bidding $8 million principal amount of 30-year First Mortgage Bonds and 100,000 shares of new preferred stock of the par value of $50 per share; or in the alternative that the Board of Directors of Applicant determines to postpone or reject bids for the bonds and/or new preferred stock, seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance and sale of unsecured promissory notes to evidence bank borrowings up to but not exceeding $17 million in principal amount.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Dubuque, Iowa, and is engaged in the electric utility business in three counties in Illinois, 21 counties in Iowa, 21 counties in Minnesota and one county in South Dakota. Applicant proposes to issue the new bonds under a 12th Supplemental Indenture to be dated as of May 1, 1969.

The proceeds from the sale of the new bonds and the new preferred stock will be applied first, to discharge $6,265,000 in outstanding promissory notes and secondly, towards payment of the $13,065,000 construction program of the Applicant for 1969. The principal items in this program include $3,773,000 for the completion of a 15.5-mile segment to be owned by the Applicant of a 345,000 volt transmission line extending from Minneapolis to Kansas City, Mo., and a 345,000/161,000 volt substation to connect the Company's transmission system to that line; $940,000 construction at its Hazelton, Iowa, substation for an additional connection to the Minneapolis-St. Louis 345,000 volt line; $600,000 for additions and improvements to its gas distribution systems in Albert Lea, Minnesota, Mason City and Clinton, Iowa; and $60,000 to purchase right-of-way for a third gas supply line from Hooppole, Ill., to Clinton, Iowa.

Under the alternative issuance of the notes, the issuance thereof would be to refund or renew the outstanding notes above mentioned and to apply towards payment of said 1969 construction program. The proceeds would also be applied towards payment of the $13,349,000 construction program of the Applicant for 1970. The principal items in this program include $800,000 to complete a 345,000 volt substation at Hazelton, Iowa, $1,300,000 for various projects to strengthen and increase the capacity of its underlying 69,000 volt transmission system and $1,500,000 for a third gas supply line from Hooppole, Ill., to Clinton, Iowa.

The interest rate to be borne by the bonds, the dividend rate of the new preferred stock and the prices to be paid for each such security are proposed to be determined by competitive bidding pursuant to the Commission's regulations. Applicant plans to open sealed, written bids for the purchase of the bonds and of the new preferred stock on May 20, 1969. The bank borrowings would be evidenced by notes to be dated the dates of their respective deliveries and expressed to mature 1 year from the date of their respective dates, or September 30, 1970, whichever date shall be earlier. The rate of interest would be the prime commercial rate of interest of the lending bank for unsecured borrowings prevailing from time to time.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 18, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-3702; Filed, Mar. 28, 1969; 8:45 a.m.]

[Docket No. CP69-244]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

MARCH 24, 1969.

Take notice that on March 17, 1969, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), Hastings, Nebr. 68901, filed in Docket No. CP69-244, an application pursuant to section 7(c) of the Natural Gas Act, for authority to construct and operate certain natural gas facilities to deliver gas from the Buffalo Wallow area, Hemphill County, Tex., to the plant of Panhandle Eastern Pipe Line Co. in Dewey County, Okla., all as more particularly set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct a 20-inch line from Hemphill County, Tex., approximately 64 miles eastward to the Aledo Sweetening Plant in Dewey County, Okla.; to construct field laterals and various gathering facilities in the Buffalo Wallow area; and to transmit to Panhandle Eastern Pipe Line Co. an estimated maximum daily delivery for the first year of 200,000 Mcf, eventually reaching a peak day delivery of 280,000 Mcf.

Applicant estimates the cost of the proposed line at $5,200,000, and the cost of the field gathering facilities at $800,000. Applicant proposes to finance the proposed facilities by current working capital or from interim bank loans to be funded through a securities issue at a later date.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before April 18, 1969.

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

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

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-3703; Filed, Mar. 28, 1969; 8:45 a.m.]

[Docket No. CP64-218]

TENNESSEE GAS TRANSMISSION CO.

Notice of Proposed Transfer of Deferred Federal Income Tax Reserve To Subsidiary

MARCH 24, 1969.

Notice is hereby given that Tennessee Gas Pipeline Co. has requested permission to transfer to a subsidiary (Channel Industries Gas Co.) the deferred Federal income tax reserve ($2,681,600) attributable to the 316 miles of 30-inch transmission line extending from Agua Dulce, Tex. to the Sabine River (commonly known as the A-S Line). The line was transferred from Tennessee Gas to Channel Industries as authorized by Commission order issued January 12, 1965, in Docket No. CP64-218 (33 FPC 55).

The company states that the aforementioned accumulated deferred tax amount is the delayed portion of the tax resulting from the different tax effect of the use of straight line basis depreciation accruals for book purposes and liberalized depreciation for income tax purposes.

Protests, petitions or notices of intervention may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before April 11, 1969.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-3705; Filed, Mar. 28, 1969; 8:45 a.m.]

[Docket No. CP69-186]

UNITED GAS PIPE LINE CO.

Order Permitting Intervention, Setting Hearing Date, and Prescribing Procedure

MARCH 25, 1969.

United Gas Pipe Line Co. (United), Post Office Box 1407, Shreveport, La. 71102 filed on January 2, 1969, pursuant to section 7(c) of the Natural Gas Act, an application for a certificate of public convenience and necessity authorizing the construction and operation of approximately 120 feet of 2-inch pipeline, two sales meter stations and appurtenant facilities to supply natural gas to the City of Huxley, Shelby County, Tex., for resale in rural areas in Shelby County and in San Augustine County, Tex.

It is estimated that the facilities will cost $23,600 to be financed out of funds on hand.

Huxley's 3d year annual natural gas requirements are estimated at 141,800 Mcf at 14.9 p.s.i.a. with an estimated peak day gas requirement of 2600 Mcf.

United proposes to sell natural gas to Huxley under United's rate schedule G-C or any applicable superseding rate schedule.

Notice of United's application, setting February 5, 1969, as the final date for filing protests or petitions to intervene, was published in the FEDERAL REGISTER on January 16, 1969 (34 F.R. 651).

Timely petitions to intervene were filed by the City of Huxley, Shelby County, Tex., supporting United's application and, opposing, by Texas Butane Dealers Association, Post Office Box 3176, Austin, Tex. 78704.

A timely protest to United's application was filed by National Liquified Petroleum Gas Association, 79 West Monroe Street, Chicago, Ill., on behalf of its 3700 member companies and its affiliated associations. On February 12, 1969, United filed an answer in opposition to the petition for leave to intervene filed by Texas Butane Dealers Association (BDA) and on February 19, BDA filed a response to United's said answer.

In its petition to intervene BDA stated that it is a nonprofit corporation organized under the laws of Texas for the purpose, among other things, of promoting liquefied petroleum gas usage and other lawful activities affecting the liquefied petroleum gas industry in the State of Texas for the benefit of the members of the association, and that its membership includes several liquefied petroleum gas retail distributors located and operating in the area proposed to be served by Huxley's proposed natural gas system. It alleged that such members will be directly affected by the proposed distribution of natural gas by the City of Huxley, since it is intended that such natural gas will replace liquefied petroleum gas and that, therefore, the association and its members have an interest in this proceeding which may be directly affected and which is not adequately represented by any other party.

BDA and the National Liquified Petroleum Gas Association in its memorandum of protest raised serious questions regarding the economic feasibility of the gas system proposed by the City of Huxley.

The Commission finds: Good cause exists to allow the petitioners named above to intervene in this proceeding subject to their compliance with the terms of this order, in order that they may establish the facts and law from which the nature and validity of their alleged rights and interest may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) The petitioners named above are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; provided however that they shall comply with the terms of this order and that their participation shall be limited to matters affecting rights and interests expressly asserted in the petitions to intervene; and provided further that permission to intervene shall not be construed as recognition by the Commission that any intervener might be aggrieved by any order entered in this proceeding.

(B) A public hearing on the issues presented by the application in 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 May 27, 1969.

(C) The applicant and each of the interveners shall file with the Commission and serve on all parties and the Commission's staff the proposed evidence comprising its case in chief, including prepared testimony of witnesses and exhibits.

By United and the City of Huxley, Tex., on or before April 21, 1969;

By Texas Butane Dealers Association on or before May 5, 1969.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-3706; Filed, Mar. 28, 1969; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 747]

GLENNON DRAYAGE & WAREHOUSE CO., INC.

Order of Revocation

On February 11, 1969, the American Employers' Insurance Co., notified the Commission that the Independent Ocean Freight Forwarder Surety Bond No. SK-319505, underwritten in behalf of Glennon Drayage & Warehouse Co., Inc., 416 Common Street, New Orleans, La. 70130, would be canceled effective March 16, 1969.

Glennon Drayage & Warehouse Co., Inc., was notified that unless a new surety bond was submitted to the Commission, its Independent Ocean Freight Forwarder License No. 747 would be canceled effective March 16, 1969, pursuant to General Order 4, Amendment 12 (46 CFR 510.9).

Glennon Drayage & Warehouse Co., Inc., has failed to submit a valid surety bond in compliance with the above rule.

It is ordered, That the Independent Ocean Freight Forwarder License No. 747 is revoked effective March 16, 1969; and

It is further ordered, That the Independent Ocean Freight Forwarder License No. 747 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 69-3735; Filed, Mar. 28, 1969; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3909]

BSF CO.

Order Suspending Trading

MARCH 25, 1969.

The capital stock (66⅔ cents par value) and the 5¾ percent convertible subordinated debentures due 1969 of BSF Co. being listed and registered on the American Stock Exchange, and such capital stock being listed and registered on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934; and all other securities of BSF Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in the said capital stock on such exchanges and in the debentures on the American Stock Exchange, and trading otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 26, 1969 through April 4, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-3718; Filed, Mar. 28, 1969; 8:46 a.m.]

[812-2382]

BUILDERS RESOURCES CORP.

Notice of Filing of Application for Order Declaring Company Exempt

MARCH 24, 1969.

Notice is hereby given that Builders Resources Corp. ("Applicant"), 6151 West Century Boulevard, Suite 928, Los Angeles, Calif. 90045, a corporation organized under the laws of the State of Delaware, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from the provisions of the Act. All interested persons are referred to the application which is on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant was organized under the laws of the State of Delaware in August 1967. Its primary function is to provide equity financing for residential construction, through the formation of limited partnerships or joint ventures with builders throughout the country. A separate partnership will be organized for each project with the builder, the general partner, and Applicant, the limited partner. In some situations, Applicant may use a joint venture instead of a limited partnership.

Applicant has eight stockholders as follows:

Name	Shares of common stock	Shares of preferred stock
American Standard, Inc	1,350	1,670
CNA Realty Corp	1,350	1,670
National Gypsum Co	1,350	1,670
The Stanley Works	1,350	1,670
Whirlpool Corp	1,350	1,670
U.S. Plywood-Champion Papers, Inc	1,350	1,670
Donaldson, Lufkin & Jenrette, Inc	950	None
Property Research Corp	950	None
Total	10,000	10,020

All of the foregoing shares of common and preferred stock were purchased for $100 per share. In addition, each of the first six stockholders listed has subscribed for $1 million of Applicant's 7 percent sinking fund debentures to be issued prior to June 30, 1969. The investments in Applicant of the above first six publicly held corporations, will each amount to $1,302,000. This investment in Applicant represents approximately 1 percent or less of the total assets or stockholders' equity of each of these corporations.

Property Research Corp. and Donaldson, Lufkin & Jenrette, Inc., the other stockholders of Applicant, are each privately owned companies, substantially all of the stockholders of which are active in the management of each company. These two stockholders organized the Applicant. Applicant represents that its eight stockholders are each financially sophisticated companies.

Applicant and its stockholders have a right of first refusal with respect to proposed transfers of securities by any stockholder. Applicant also has the right to redeem Preferred Stock after September 1, 1973. Stockholders of Applicant have the right to have all their security holdings in Applicant redeemed after July 1, 1973.

Applicant's shareholders have adopted a Qualified Stock Option Plan pursuant to section 422 of the Internal Revenue Code. The plan provides for options to purchase Applicant's common stock to be granted to key employees, for an aggregate of not more than 1,000 shares of such stock, to a total of not more than 20 officers and area managers. As of the present date, Applicant has granted options to the president (200 shares), and the vice president (100 shares).

Applicant states that each formation by it of a joint venture or a limited partnership with a builder may be deemed to constitute the investment by Applicant in a "security" as defined in section 2(a)(35) of the Act and that hence Applicant may be deemed an investment company.

Applicant submits that in view of the fact that its publicly held corporate stockholders will have only a minimal part of their assets invested in Applicant and in view of the financial sophistication and size of all of Applicant's stockholders, regulation of Applicant is not necessary and that therefore Applicant should be exempted from all the provisions of the Act pursuant to section 6(c) of the Act.

Section 6(c) of the Act, provides in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant consents to the granting of the requested order subject to the following conditions:

(a) Applicant shall not issue securities, and Applicant's stockholders shall not transfer any securities of Applicant held by such stockholders, to any persons other than Applicant's present stockholders or pursuant to options granted under Applicant's Qualified Stock Option Plan to Officers of Applicant and any subsequently acquired subsidiaries of Applicant and to Area Managers of Applicant, not exceeding a total of 20 persons, unless Applicant shall notify the staff of the Commission at least 30 days prior to such issuance or transfer, although such period may be reduced by the staff on request of Applicant, and if, within 25 days of receipt of such notice, the staff shall notify Applicant that a substantial question exists whether the proposed issuance or transfer affects the grounds upon which the requested order was granted, Applicant shall not issue any security to any such person, and no stockholder of Applicant shall transfer to such person any security of Applicant held by such stockholder, unless the Commission has entered an order permitting the proposed issuance or transfer of securities pursuant to an application under the Act filed by Applicant.

(b) Any stockholder of Applicant which has a stock that is publicly traded shall not invest more than 5 percent of its total assets in Applicant: *Provided, however*, That if any stockholder of Applicant does not have a publicly traded stock but is a subsidiary of a publicly held corporation, that the total assets of such publicly held corporation shall be considered for purpose of this condition.

Notice is further given that any interested person may, not later than April 14, 1969 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon

said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

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

[F.R. Doc. 69-3719; Filed, Mar. 28, 1969; 8:46 a.m.]

[812-2434]

CAPITAL SOUTHWEST CORP.

Notice of Filing of Application for Order Exempting Certain Proposed Transactions

MARCH 25, 1969.

Notice is hereby given that Capital Southwest Corp. ("Applicant"), 750 Hartford Building, Dallas, Tex. 75201, a Texas corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 ("Act") and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for certain exemptions from sections 12(e), 17(a), and 17(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant was organized and commenced operations in 1961 when it first offered its shares to the public at $11 a share. Applicant has 3,500 shareholders and as of September 30, 1968, it had total net assets of $39,030,496, taking those securities for which market quotations are readily available at market value and the remaining securities and assets at their fair value as determined by the board of directors.

In order to provide a framework within which it can retain and operate a portion of its assets under the Small Business Administration program and at the same time free the major portion of its assets to enable it to take advantage of investment opportunities not contemplated under that program, Applicant proposes, subject to stockholder approval, to cause its license as a small business investment company to be transferred to a wholly owned subsidiary, CSC Capital Corp. ("CSCC"), a Texas corporation organized in August 1968. CSCC will register as a closed-end, nondiversified investment company upon the issuance of an order of the Commission pursuant to this notice. Applicant will then and from time to time in the future transfer certain assets to CSCC and thereafter will operate as a closed-end, nondiversified, management type investment company. Applicant further proposes to continue to engage, and to cause CSCC to engage, in the business of furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities. As an exhibit to the application, Applicant has attached a copy of a letter from the Small Business Administration ("SBA") which indicates that the SBA has no objection to the proposal.

Applicant has agreed that the order of the Commission that may issue pursuant to this notice may be conditioned upon the following:

1. Applicant will at all times own and hold, beneficially and of record, all of the outstanding capital stock of CSCC.

2. Applicant will not cause or permit CSCC to change any of its fundamental investment policies, unless such action shall have been authorized by Applicant as the holder of all of the outstanding voting securities of CSCC after approval of such action by the vote of a majority (as defined in the Act) of Applicant's outstanding voting securities.

3. Applicant will not cause or permit CSCC to enter into, renew or perform any investment advisory or underwriting contracts or agreements, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15 of the Act. Any vote of the stockholders of CSCC as required by section 15 of the Act will be deemed to require a vote of Applicant's stockholders. Any action of the directors of CSCC as required by section 15 of the Act, will be deemed to require a vote of the directors of Applicant, including a majority of those directors who are not parties to any such contract or agreement or affiliated persons of any such party.

4. The officers and directors of Applicant and CSCC will be in all respects identical.

5. Subject always to Applicant, individually, and Applicant and CSCC on a consolidated basis, having the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any senior securities, (a) Applicant may issue and sell to one or more banks, and/or to one or more insurance companies its promissory notes or other evidences of indebtedness in consideration of any loan, extension or renewal thereof made by private arrangement, provided that such notes or evidences of indebtedness are not intended to be publicly distributed, and provided further that such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire, any equity security, and (b) CSCC may borrow from the SBA or from institutional lenders whose loans are guaranteed by SBA, on whatever basis the SBA may from time to time establish for lending or providing guarantees for senior indebtedness for small business investment companies and as may be permitted under the Act and applicable rules thereunder, provided that Applicant will not guarantee any such borrowings by CSCC. Applicant will not itself, and will not cause or permit CSCC to, otherwise issue any class of senior security.

6. Applicant will not make any investment in CSCC if the aggregate value of any existing investment plus the cost of any additional investment in CSCC would exceed 25 percent of the value of Applicant's total assets on a corporate basis.

7. Applicant will file with the Commission and transmit to its stockholders reports prescribed and required by section 30 of the Act, including separate financial statements of CSCC. Applicant will also cause CSCC to file with the Commission copies of all reports which CSCC will be required to file with the SBA. Any independent public accountant who signs a financial statement filed by Applicant or CSCC with the Commission shall be selected and approved for Applicant in compliance with section 32(a) of the Act by a majority (as defined in the Act) of Applicant's outstanding voting securities.

Section 12(d)(1), as here pertinent, prohibits the acquisition by a registered investment company of more than 5 percent of the total outstanding voting stock of any other investment company if the policy of such other investment company is the concentration of investments in a particular industry or group of industries, or more than 3 percent of such stock, if the policy is not so to concentrate.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), a registered investment company may utilize up to 5 percent of the value of its assets to purchase or otherwise acquire any securities issued by another investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities, provided that the securities issued by such other investment company consist solely of one class of common stock. An exemptive order from section 12(e) of the Act is necessary in order to enable Applicant to invest more than 5 percent of the value of its assets in CSCC which, as noted, will be a 100 percent owned subsidiary of Applicant and permit CSCC to issue two classes of securities, viz. common stock to be held by Applicant and debt to be held or guaranteed by the SBA.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company any securities or other property. Since CSCC is an affiliated person of Applicant, a registered investment company, section 17(a) makes it unlawful for any transfer of assets to be effected between the two companies, as presently contemplated, in the absence of an exemptive order of the Commission.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, among other things, that it shall be

unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. Applicant has requested an order exempting it from the provisions of section 17(d) of the Act to permit it to participate with CSCC in any possible joint transactions with third persons having no affiliation with Applicant, CSCC or with their affiliates.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemptions are necessary to enable it to contemporaneously implement the congressional intent recited in the Small Business Investment Act of 1958 and to engage in the furnishing of venture capital as contemplated by section 12(e) of the Act. The application, as amended, states that this proposed arrangement would be favorable to Applicant's stockholders.

Notice is further given that any interested person may, not later than April 15, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Associate Administrator for Investment, Investment Division, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 69-3721; Filed, Mar. 28, 1969; 8:46 a.m.]

CAPITOL HOLDING CORP.

Order Suspending Trading

MARCH 25, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading otherwise than on a national securities exchange in the common stock and all other securities of Capital Holding Corp. is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 26, 1969, through April 4, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-3720; Filed, Mar. 28, 1969; 8:46 a.m.]

[812-2484]

EATON & HOWARD BALANCED FUND

Notice of Filing of Application for Order Exempting Sale by Open-End Company of Shares at Other Than Public Offering Price

MARCH 25, 1969.

Notice is hereby given that Eaton & Howard Balanced Fund ("applicant"), 24 Federal Street, Boston, Mass. 02110, a common law trust existing under the laws of Massachusetts registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus, in exchange for substantially all of the assets of the Metal Mouldings Corp. ("Metal").

All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

Metal, a Michigan corporation, is an investment company, all of the outstanding stock of which is owned by three stockholders, and is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between applicant and Metal, substantially all of the cash and securities owned by Metal, with a value of approximately $4,470,425 as of February 5, 1969, will be transferred to applicant in exchange for shares of its capital stock. The shares of applicant are to be sold at net asset value. The number of shares of applicant to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in detail in the application) of the assets of Metal to be transferred to applicant by the net asset value per share of applicant both to be determined as of a valuation time, as defined in the agreement. If the valuation under the agreement had taken place on February 5, 1969, Metal would have received 372,846 shares of applicant's stock.

When received by Metal, the shares of applicant, which are registered under the Securities Act of 1933, are to be distributed to the Metal stockholders on the liquidation of Metal. Applicant has been advised by the management of Metal that the stockholders of Metal have no present intention of redeeming any of applicant's shares following the proposed transaction.

There is no affiliation between applicant and Metal, Metal is not an affiliated person of any affiliated person of applicant, and the agreement was negotiated at arm's length by the two companies. Applicant's Board of Trustees approved the agreement as being beneficial to its shareholders, because among other things, applicant will be able to acquire at one time substantial additions to its portfolio securities without affecting the market in those securities and without incurring brokerage commissions.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. The current public offering price of the shares (redeemable) of applicant as described in applicant's prospectus is net asset value plus a sales charge. Thus, section 22(d) prohibits the proposed sale of applicant's shares at net asset value without a sales charge.

Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act other than section 22(d) and submits that the granting of the application is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 15, 1969 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by the statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be con-

troverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-3722; Filed, Mar. 28, 1969; 8:46 a.m.]

[File No. 1-3468]

MOUNTAIN STATES DEVELOPMENT CO.

Order Suspending Trading

MARCH 25, 1969.

The common stock, 1 cent par value, of Mountain States Development Co. being listed and registered on the Salt Lake Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Mountain States Development Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the Salt Lake Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 26, 1969, through April 4, 1969, both dates inclusive.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-3723; Filed, Mar. 28, 1969; 8:46 a.m.]

[812-2325]

TELECOM CORP. AND TEXAS CAPITAL CORP.

Notice of Filing of Application for Order Declaring That Company Is Not Investment Company and Exempting Subsidiary From all Provisions of Act

MARCH 24, 1969.

Notice is hereby given that TeleCom Corp. ("TeleCom") (formerly Texas Capital Corp.), a Texas corporation registered as a closed-end, non-diversified, management investment company under the Investment Company Act of 1940 ("Act"), and its wholly-owned subsidiary, Texas Capital Corp. ("Texas Capital"), Post Office Box 139, Georgetown, Tex. 78626, have filed an application for an order pursuant to section 8(f) of the Act declaring that TeleCom has ceased to be an investment company and for an order pursuant to section 6(c) of the Act exempting Texas Capital from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

TeleCom commenced operation in 1958 under the name "Texas Capital Corporation" as a small business investment company ("SBIC") licensed under the Small Business Investment Act of 1958. Thereafter the company acquired a number of majority owned subsidiaries which the company controlled and operated. After being informed by the Small Business Administration ("SBA") that in order to maintain its license as an SBIC the company would have to divest itself of these control positions, a plan of reorganization was adopted by shareholders on August 29, 1968 pursuant to which the company's name, SBIC license and investments which qualified as SBIC assets were transferred to a wholly owned subsidiary. The subsidiary took the name Texas Capital Corporation and the parent corporation changed its name to TeleCom Corporation. The subsidiary assumed outstanding debts of the parent corporation of $5,399,785 to the SBA and is also indebted in the amount of $344,334 to TeleCom.

TeleCom represents that, based on fair value as determined by the TeleCom Board of Directors, as of October 18, 1968, TeleCom's holdings of investment securities, consisting solely of its investment in its subsidiary Texas Capital, were no more than $4,884,973 or 26.9 percent of its total assets of $18,155,642 (exclusive of government securities and cash items) on an unconsolidated basis. For the year ended September 30, 1968, the adjusted net income of Texas Capital was 1.68 percent of the total adjusted net income of TeleCom and its consolidated subsidiaries. The application also states that TeleCom is and will be primarily engaged in the business of operating its majority owned subsidiaries other than Texas Capital and that more than 75 percent of the time of its personnel is occupied with the internal affairs of these companies.

Section 8(f) of the act provides, in pertinent part, that when the Commission, on application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which may be made upon appropriate conditions necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

TeleCom has undertaken to mail a copy of the notice of application to all of its stockholders of record as of the date of the notice.

On the ground that it is a wholly-owned subsidiary of TeleCom, a company which is represented not to be an "investment company," Texas Capital, which does come within the definition of that term contained in section 3(a) of the Act, applies pursuant to section 6(c) of the Act for an order exempting it from all of the provisions of the Act. Texas Capital claims that but for its outstanding debts and any future indebtedness to the SBA it would come within section 3(b)(3) of the Act which excepts from the definition of "investment company" any issuer all of the outstanding securities of which (other than short-term paper and directors qualifying shares) are directly or indirectly owned by a company primarily engaged either directly or indirectly in a business or businesses other than that of investing, owning, holding, or trading in securities.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

TeleCom and Texas Capital contend that the statutory conditions for an exemption pursuant to section 6(c) would be met upon a finding that TeleCom is not an investment company and if any order of exemption is conditioned on among other things: (1) All of Texas Capital's outstanding capital stock being owned by TeleCom, and (2) Texas Capital's indebtedness being limited to (a) indebtedness to the SBA, which TeleCom and Texas Capital assert is in a position to protect its investment, and (b) indebtedness of $344,334 to TeleCom.

TeleCom and Texas Capital have therefore consented that any order exempting Texas Capital from the provisions of the Act may be issued subject to the following conditions:

1. Texas Capital shall:

(a) Not issue any securities (other than short-term paper as defined in section 2(a)(36) of the Act) except to TeleCom or the SBA unless such order is modified expressly by another order of the Commission to permit such transaction;

(b) File with the Commission within 120 days after the close of each fiscal year of Texas Capital the data required by Items 5, 6, 7, and 8 of the annual report on Form N-5R adopted by the Commission pursuant to section 30(a) of the Act;

(c) File with the Commission within 120 days after the close of each fiscal year of Texas Capital and TeleCom (i) a balance sheet of each company showing assets in reasonable detail as of the close of such fiscal year, with a schedule showing such assets at value (taking securities for which market quotations are readily available at market value and taking other securities and assets at value as determined in good faith by the board of directors) and (ii) a statement of income for such fiscal year and a statement of paid-in surplus and retained earnings as of the close of such fiscal year for Texas Capital and TeleCom. Texas Capital may incorporate by reference in any material filed to meet the requirements of this condition any document or part thereof previously or concurrently filed with the Commission pursuant to any of the Acts administered by the Commission.

2. No person other than TeleCom or the SBA shall at any time own any outstanding security of Texas Capital (other than short-term paper).

Notice is further given that any interested person may, not later than April 14, 1969, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon TeleCom and Texas Capital. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Deputy Administrator for Investments, Small Business Administration, Washington, D.C. 20416.

By the Commission.

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

[F.R. Doc. 69-3724; Filed, Mar. 28, 1969; 8:46 a.m.]

TELSTAR, INC.

Order Suspending Trading

MARCH 25, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Telstar, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 26, 1969, through April 4, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-3725; Filed, Mar. 28, 1969; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 1002; Corrected Car Distribution Direction 38, Amdt. 1]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO. AND NORTHERN PACIFIC RAILWAY CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 38, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 38 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 69-3752; Filed Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 32, Amdt. 1]

ERIE-LACKAWANNA RAILWAY CO. ET AL.

Car Distribution

To: Erie-Lackawanna Railway Co., Chicago, Burlington & Quincy Railroad Co., and Great Northern Railway Co.

Upon further consideration of Car Distribution Direction No. 32, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 32 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 69-3753; Filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 33, Amdt. 1]

NORFOLK AND WESTERN RAILWAY CO. ET AL.

Car Distribution

To: Norfolk and Western Railway Co., Chicago, Rock Island and Pacific Railroad Co., Minneapolis, Northfield and Southern Railway, and Great Northern Railway Co.

Upon further consideration of Car Distribution Direction No. 33, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 33 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3754; Filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 34, Amdt. 1]

PENN CENTRAL CO. ET AL.

Car Distribution

To: Penn Central Co., Chicago, Burlington & Quincy Railroad Co., and Great Northern Railway Co.

Upon further consideration of Car Distribution Direction No. 34, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 34 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3755; Filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 36, Amdt. 1]

PENN CENTRAL CO. ET AL.

Car Distribution

To: Penn Central Co., Chicago, Burlington & Quincy Railroad Co., and Northern Pacific Railway Co.

Upon further consideration of Car Distribution Direction No. 36, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 36 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3756; Filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 35, Amdt. 1]

ST. LOUIS-SAN FRANCISCO RAILWAY CO. ET AL.

Car Distribution

To: St. Louis-San Francisco Railway Co., Chicago, Burlington & Quincy Railroad Co., and Great Northern Railway Co.

Upon further consideration of Car Distribution Direction No. 35, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 35 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3757; Filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 37, Amdt. 1]

SEABOARD COAST LINE RAILROAD CO. ET AL.

Car Distribution

To: Seaboard Coast Line Railroad Co., Norfolk and Western Railway Co., Chicago, Burlington & Quincy Railroad Co., and Northern Pacific Railway Co.

Upon further consideration of Car Distribution Direction No. 37, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 37 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3758; filed, Mar. 28, 1969; 8:48 a.m.]

[S.O. 1002; Car Distribution Direction 39, Amdt. 1]

SOUTHERN RAILWAY CO. AND CHICAGO & EASTERN ILLINOIS RAILROAD CO.

Car Distribution

Upon further consideration of Car Distribution Direction No. 39, and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 39 be, and it is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., April 19, 1969, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 29, 1969, and that it shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 26, 1969.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 69-3759; Filed, Mar. 28, 1969; 8:49 a.m.]

[Notice 804]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 26, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 83083 (Sub-No. 1 TA), filed March 20, 1969. Applicant: HOWARD D. BAKER, doing business as DON BAKER, 925 North Central Street, Paris, Ill. 61944. Applicant's representative: W. L. Jordan, 205 Merchants Savings Building, 7 South Sixth Street, Terre Haute, Ind. 47801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial-Coal*, crushed, ground, or slack, from Sycamore Temple and Hawthorn mines in Green County, Ind., and Old Glory mine in Owen County, Ind., to plantsite of Illinois Cereal Mills, Inc., Paris, Ill., for 180 days. Supporting shipper: Illinois Cereal Mills, Inc., 614 South Jefferson Avenue, Paris, Edgar County, Ill. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 96500 (Sub-No. 6 TA), filed March 24, 1969. Applicant: HARRY'S EXPRESS COMPANY, INC., 545 West 25th Street, New York, N.Y. 10001. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toy animals, dolls, and musical cases*, from carrier's terminal at New York, N.Y., and steamship piers located in the New York, N.C. commercial zone, to Deer Park, N.Y., for 150 days. Supporting shipper: R. Dakin & Co., 111 West Industry Court, Deer Park, N.Y. 10007. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 107295 (Sub-No. 179 TA), filed March 20, 1969. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products and hardwood flooring*, from Ishpeming, Mich., and White Lake, Wis., to points in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, for 180 days. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 113024 (Sub-No. 73 TA), filed March 19, 1969. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bathroom and washroom fixtures, sinks, and accessories, and attachments therefor*, in rack-equipped or High-Cube equipment (3,000 cubic foot capacity or more), for account of Universal-Rundle Corp., (1) from plantsites of Universal-Rundle Corp., at New Castle, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (2) between plantsites of U-R Corp., at New Castle, Pa., and Camden, N.J., and points in Illinois on and north of Illinois Highway 24 (except Moline), Decatur, Ill.; St. Louis, Mo., and Monroe, Ga., for 180 days. Supporting shipper: Universal-Rundle Corp., 217 North Mill Street, Post Office Box 960, New Castle, Pa. 16103 (Robert L. Gardner, Traffic Manager). Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 206 Old Post Office Building, 129 East Maine Street, Salisbury, Md. 21801.

No. MC 113666 (Sub-No. 33 TA) (Correction), filed March 10, 1969 published the FEDERAL REGISTER issue of March 22, 1969, and republished as corrected this issue. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite of Central Farmers Fertilizer Co. near Albany, Ill., to points in Iowa; from the plantsite of Central Farmers Fertilizer Company at Kingston Mines, Ill., to points in Indiana; from the plantsite of Agrico Chemical Company, a division of Continental Oil Corp. at North Pekin, Ill., to points in Indiana; from the plantsite of the Central Nitrogen Corp. near Terre Haute, Ind., to points in Illinois and Ohio; from the plantsite of Agrico Chemical Co., a division of Continental Oil Corp., near Mt. Vernon, Ind., to points in Illinois; from the plantsite of Agrico Chemical Co., a division of Continental Oil Corp. at Wilder, Ky. to points in Ohio and Michigan; from the plantsite of Olin near Joliet, Ill., to points in Indiana, Ohio and Michigan, for 180 days. NOTE: The purpose of this republication is to correctly set forth the authority requested. Supporting shipper: American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 113678 (Sub-No. 343 TA), filed March 20, 1969. Applicant: CURTIS, INC., 770 East 51st Avenue, Post Office Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and packinghouse products* from Austin, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 115491 (Sub-No. 115 TA), filed March 24, 1969. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Drawer 67, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Jacksonville, Fla., to points in Georgia, on and south of U.S. Highway 80, and to points in Effingham County, Ga., for 180 days. Supporting shipper: United States Steel Corp., 525 William Penn Place, Pittsburgh, Pa. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest 1st Avenue, Miami, Fla. 33130.

No. MC 116077 (Sub-No. 262 TA), filed March 20, 1969. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue 77023, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, in bulk, in pneumatic tanks, from the plant of Celanese Chemical Co., South Bay City, Tex., to B. F. Goodrich Co., Avon Lake, Ohio, for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Celanese Chemical Co. (A. DeRouen, Traffic

Manager), 6601 Gulf Freeway, Suite A–153, Houston, Tex. 77023. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 117119 (Sub-No. 413 TA), filed March 21, 1969. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dough*, prepared, other than frozen, from Denison, Tex., to points in Tennessee, for 180 days. Supporting shipper: The Pillsbury Co., 608 2d Avenue S., Minneapolis, Minn. 55402. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, Little Rock, Ark. 72201.

No. MC 118127 (Sub-No. 11 TA), filed March 24, 1969. Applicant: HALE DISTRIBUTING COMPANY, INC., 1315 East 7th Street, Los Angeles, Calif. 90021. Applicant's representative: William J. Augello, Jr., Bar Building, 36 West 44th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from Boston, Mass., and Philadelphia, Pa., to points in Los Angeles County, Calif., for 150 days. Supporting shipper: Ever-Freez Food Distributors, Inc., 904 West Whittier Boulevard, Montebello, Calif. Send protests to: District Supervisor John E. Nance, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 120791 (Sub-No. 2 TA), filed March 21, 1969. Applicant: HORTON AUSTON KEY, doing business as CARTHAGE FREIGHT LINE, Post Office Box 194, Carthage, Tenn. 37030. Applicant's representative: Charles H. Hudson, Jr., Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, serving the following points as off-route points, Brush Creek, Gordonsville, Hickman, Carthage Junction, Lancaster, New Middleton, and Stonewall, Tenn., in connection with applicant's regular-route authority between Nashville and Carthage, Tenn., for 180 days. Supporting shippers: Nashville District Corps of Engineers, Nashville, Tenn.; Nixon and Paschall, Hickman, Tenn.; H & H Grocery, Carthage Junction, Tenn.; Neal Hunt Grocery, Hickman, Tenn.; Gordonsville Supply, Gordonsville, Tenn.; Gordonsville High School, Gordonsville, Tenn.; J. L. Bass Funeral Home, Gordonsville, Tenn.; J. C. Maggart & Son, Gordonsville, Tenn.; Gordonsville American, Gordonsville, Tenn.; Welsh Co., St. Louis, Mo.; Dicks Market, Lancaster, Tenn.; Stanley Medley, Lancaster, Tenn. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 133569 TA, filed March 20, 1969. Applicant: CAROLINA FREIGHTWAYS, INC., Post Office Box 8665, Charlotte, N.C. 28208. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe, piling, and rail*, between the plantsite and warehouse facilities of L. B. Foster Co. in Mecklenburg County, N.C., on the one hand, and, on the other, points in Virginia, South Carolina, Georgia, Florida, Alabama, Kentucky, Tennessee, and Wilmington, N.C., for 180 days. Supporting shipper: L. B. Foster Co., Post Office Box 47367, Doraville, Ga. 30340. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69–3760; Filed, Mar. 28, 1969; 8:49 a.m.]

[Notice 319]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 26, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–70768. By order of March 19, 1969, the Motor Carrier Board approved the transfer to five Moving & Storage Co., a corporation, Houston, Pa.; of a portion of the operating rights in certificate No. MC–85390, issued January 23, 1941, to Raymond E. Fife, Houston, Pa.; authorizing the transportation of: Household goods, between points in Washington County, Pa.; on the one hand, and, on the other, points in Ohio, Maryland, and West Virginia. Howard O. Stevens, Mellon Bank Building, Cannonsburg, Pa. 15317, attorney for applicants.

No. MC–FC–70847. By order of March 20, 1969, the Motor Carrier Board approved the transfer to Carpenter Bros. Trucking, Inc., Las Animas, Colo., of the certificates in Nos. MC–117867, MC–117867 (Sub-No. 4) and MC–117867 (Sub-No. 7), issued November 29, 1965, June 14, 1967 and June 14, 1967, respectively to Smith Banana Transport, Inc., 901 West Fourth Street, Pueblo, Colo. 81003, authorizing the transportation of bananas from Freeport, Tex., and New Orleans, La., to named points in Colorado and New Mexico. Herbert M. Boyle, 946 Metropolitan Building, Denver, Colo. 80202, attorney for transferee.

No. MC–FC–71071. By order of March 20, 1969, the Motor Carrier Board approved the transfer to David L. Gould, doing business as David Gould Trucking Co., Holly Springs, Miss., of the operating rights in certificate No. MC–30808 issued April 22, 1952, to John W. Forester, doing business as Parker Truck Line, Holly Springs, Miss., authorizing the transportation of general commodities, with usual exceptions, between Holly Springs, Miss., and Memphis, Tenn., via U.S. Highway 78, serving all intermediate points in Mississippi, and charcoal furnaces, in truckload lots, from Holly Springs, Miss., to points in Mississippi and Tennessee within 250 miles of Holly Springs, Miss. James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103, attorney for applicants.

No. MC–FC–71097. By order of March 25, 1969, the Motor Carrier Board approved the transfer to Jenkins-Simmons Transportation Co., Inc., North Abington, Mass., of certificate No. MC–75381, issued April 12, 1955, to Manning's Express, Inc., East Brookfield, Mass., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Boston, Mass., and Ware, Mass., over regular routes, serving intermediate points, and specified off-route points, and those within 15 miles of Boston. Arthur A. Wentzell, Post Office Box 720, Worcester, Mass. 01601, registered practitioner.

No. MC–FC–71146. By order of March 18, 1969, the Motor Carrier Board approved the transfer to Lester M. Gundrum, doing business as P. & E. Buehler Trucking, Troy, N.Y., of certificate No. MC–115059 and certificate of registration No. MC–115059 (Sub-No. 2), both issued February 1, 1967, to Lester M. Gundrum and Charles Bothwell, a partnership, doing business as P. & E. Buehler Trucking, Troy, N.Y. certificate No. MC–115059 authorizes the transportation of: General commodities, with the usual exceptions, between Cherryplain, N.Y., and Albany, N.Y., from Cherryplain over New York Highway 22 to Petersburg, thence over New York Highway 2 to Troy, thence over New York Highway 32 to Albany, and from Cherryplain over New York Highway 22 to Stephentown, thence over New York Highway 43 to West Sand Lake, thence over New York Highway 150 to Troy, thence over New York Highway 32 to Albany, and return over the same routes, serving all intermediate points. Certificate of registration No. MC–115059 (Sub-No. 2) embraces the right to engage in operations pursuant to certificate of public convenience and necessity No. 7364 dated April 26, 1955, and reissued January 25, 1966, by the New York Public Service Commission. John J. Brady, Jr., 75 State Street, Albany, N.Y., 12207, attorney for applicants.

No. MC-FC-71154. By order of March 25, 1969, the Motor Carrier Board approved the transfer to Alfred Santini & Co., Inc., Bronx, New York, N.Y., of certificate No. MC-21313, issued September 28, 1959, to Anthony Cuneo, doing business as Alfred Santini & Co., Bronx, New York, N.Y., authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Massachusetts, and Pennsylvania, and between New York, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, Virginia, and the District of Columbia. Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432, attorney for applicants.

No. MC-FC-71188. By order of March 20, 1969, the Motor Carrier Board approved the transfer to Albert L. Derby, Whitewood, S. Dak., of the permit in No. MC-123420 (Sub-No. 2), issued February 21, 1967, to Joseph C. Werlinger, Whitewood, S. Dak., authorizing the transportation of pressure treated post, poles, and piling and other pressure treated wood products when transported in the same vehicle at the same time with the described post, poles, and piling from the site of the treating plant of the Wheeler Lumber Bridge & Supply Co., at or near Whitewood, S. Dak., and points within 1 mile thereof, to points in Colorado, Iowa, Minnesota, Montana, Nebraska, North Dakota (with exceptions), and Wyoming for the account of Wheeler Lumber Bridge & Supply Co., Keith R. Smit, Box 29, Sturgin, S. Dak. 57785, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-3761; Filed, Mar. 28, 1969; 8:49 a.m.]

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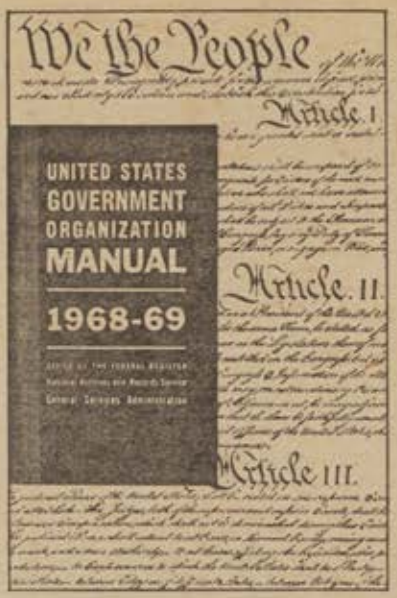

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