FEDERAL REGISTER

VOLUME 34 • NUMBER 210

Friday, October 31, 1969 • Washington, D.C.

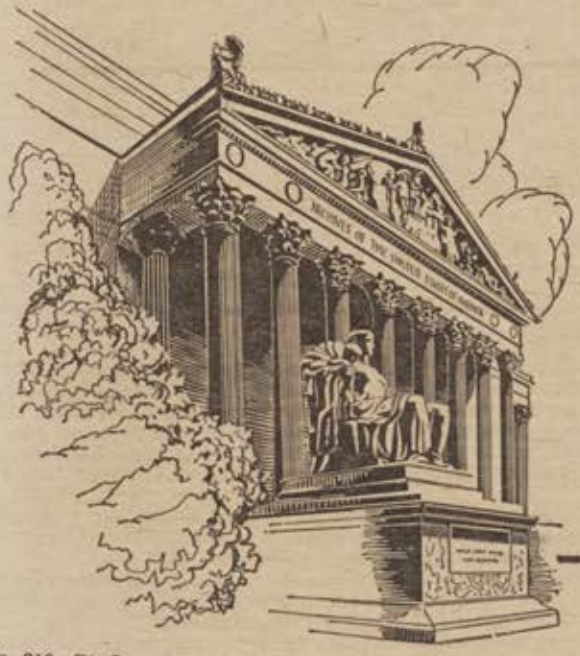
Pages 17601–17715

Part I

(Part II begins on page 17683)

Agencies in this issue—

Detailed list of Contents appears inside.



FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

Contents

List of CFR Parts Affected

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

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

3 CFR

EXECUTIVE ORDERS:

10988 (revoked by EO 11491) 17605
11491 17605

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Memorandum of May 21, 1963 (revoked by EO 11491) 17605

5 CFR

630 17617
831 17617

7 CFR

1007 17618
1090 17619

PROPOSED RULES:

1124 17684

14 CFR

97 17623

PROPOSED RULES:

103 17662
218 17662

16 CFR

15 17622

21 CFR

19 17620
20 17621
120 (2 documents) 17620, 17621

32 CFR

816 17621
865 17621
874 17621

33 CFR

117 (2 documents) 17622

43 CFR

PUBLIC LAND ORDERS:

640 (revoked by PLO 4721) 17650
4582 (see PLO 4721) 17650
4721 17650

47 CFR

74 17651

50 CFR

33 17661

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11491

LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

General Provisions

Section 1. *Policy.* (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Sec. 2. *Definitions.* When used in this Order, the term—

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 or title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of formal or exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) "Guard" means an employee assigned to enforce against employees and other persons rules to protect agency property or the safety of persons on agency premises, or to maintain law and order in areas or facilities under Government control;

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) asserts the right to strike against the Government of the United States or any agency thereof, or to assist or participate in such a strike, or imposes a duty or obligation to conduct, assist or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

SEC. 3. *Application.* (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

SEC. 4. *Federal Labor Relations Council.* (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, an official of the Executive Office of the President, and such other officials of the Executive branch as the President may designate from time to time. The Civil Service Commission shall provide services and staff assistance to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this Order;

(2) appeals on negotiability issues as provided in section 11(c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

SEC. 5. *Federal Service Impasses Panel.* (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

SEC. 6. *Assistant Secretary of Labor for Labor-Management Relations.*

(a) The Assistant Secretary shall—

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council; and

(4) except as provided in section 19(d) of this Order, decide complaints of alleged unfair labor practices and alleged violations of the standards of conduct for labor organizations.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915, (38 Stat. 1084, as amended; 31 U.S.C. § 686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

SEC. 7. *Recognition in general.* (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition, in whatever form accorded, does not—

(1) preclude an employee, regardless of whether he is a member of a labor organization, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulation, or established agency policy; or from choosing his own representative in a grievance or appellate action;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) An agency shall establish a system for intra-management communication and consultation with its supervisors or associations of supervisors. These communications and consultations shall have as their purposes the improvement of agency operations, the improvement of working conditions of supervisors, the exchange of information, the improvement of managerial effectiveness, and the establishment of policies that best serve the public interest in accomplishing the mission of the agency.

(f) Informal recognition shall not be accorded after the date of this Order.

SEC. 8. *Formal Recognition.* (a) Formal recognition, including formal recognition at the national level, shall not be accorded after the date of this Order.

(b) An agency shall continue any formal recognition, including formal recognition at the national level, accorded a labor organization before the date of this Order until—

(1) the labor organization ceases to be eligible under this Order for formal recognition so accorded;

(2) a labor organization is accorded exclusive recognition as representative of employees in the unit to which the formal recognition applies; or

(3) the formal recognition is terminated under regulations prescribed by the Federal Labor Relations Council.

(c) When a labor organization holds formal recognition, it is the representative of its members in a unit as defined by the agency when recognition was accorded. The agency, through appropriate officials, shall consult with representatives of the organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that affect members of the organization in the unit to which the formal recognition applies. The organization is entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. The agency is not required to consult with the labor organization on any matter on which it would not be required to meet and confer if the labor organization were entitled to exclusive recognition.

SEC. 9. *National consultation rights.* (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may confer in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

SEC. 10. *Exclusive recognition.* (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity;

(3) any guard together with other employees; or

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) An agency shall not accord exclusive recognition to a labor organization as the representative of employees in a unit of guards if the organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union." Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative; or

(3) a labor organization should cease to be the exclusive representative.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

SEC. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and regulations, a national or other controlling agreement at a higher level in the agency, and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this Order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this Order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this Order.

SEC. 12. *Basic provisions of agreements.* Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

SEC. 13. *Grievance procedures.* An agreement with a labor organization which is the exclusive representative of employees in an appropriate unit may provide procedures, applicable only to employees in the unit, for the consideration of employee grievances and of disputes over the interpretation and application of agreements. The procedure for consideration of employee grievances shall meet the requirements for negotiated grievance procedures established by the Civil Service Commission. A negotiated employee grievance procedure which conforms to this section, to applicable laws, and to regulations of the Civil Service Commission and the agency is the exclusive procedure available to employees in the unit when the agreement so provides.

SEC. 14. *Arbitration of grievances.* (a) Negotiated procedures may provide for the arbitration of employee grievances and of disputes over the interpretation or application of existing agreements. Negotiated procedures may not extend arbitration to changes or proposed changes in agreements or agency policy. Such procedures shall provide for the invoking of arbitration only with the approval of the labor organization that has exclusive recognition and, in the case of an employee grievance, only with the approval of the employee. The costs of the arbitrator shall be shared equally by the parties.

(b) Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

SEC. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved if it conforms to applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

SEC. 16. *Negotiation disputes.* The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

SEC. 17. *Negotiation impasses.* When voluntary arrangements, includng the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

SEC. 18. *Standards of conduct for labor organizations.*

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

SEC. 19. *Unfair labor practices.* (a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) When the issue in a complaint of an alleged violation of paragraph (a) (1), (2), or (4) of this section is subject to an established grievance or appeals procedure, that procedure is the exclusive procedure for resolving the complaint. All other complaints of alleged violations of this section initiated by an employee, an agency, or a labor organization, that cannot be resolved by the parties, shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

SEC. 20. *Use of official time.* Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management.

SEC. 21. *Allotment of dues.* (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission.

SEC. 22. *Adverse action appeals.* The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511–7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

SEC. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a

clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations, other than those for the implementation of section 7(e) of this Order.

SEC. 24. *Savings clauses.* (a) This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

SEC. 25. *Guidance, training, review and information.*

(a) The Civil Service Commission shall establish and maintain a program for the guidance of agencies on labor-management relations in the Federal service; provide technical advice and information to agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

SEC. 26. *Effective date.* This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

Richard Nixon

THE WHITE HOUSE,
October 29, 1969.

[F.R. Doc. 69-13052; Filed, Oct. 29, 1969; 1:49 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 630—ABSENCE AND LEAVE

PART 831—RETIREMENT

Miscellaneous Amendments

To implement the Civil Service Retirement Amendments of 1969, Public Law 91-93, (1) Subpart D of Part 630 is amended by adding a new § 630.407 to provide that sick leave used in the computation of an annuity is not thereafter available for use, transfer, or recredit, and (2) Subpart C of Part 831 is amended by adding a new § 831.302 governing the use of unused sick leave in the computation of an annuity. In addition, § 831.101 is amended by adding a new paragraph (c) to supply a definition of "Bureau" and §§ 831.107 (a)-(h), 831.301(b), 831.1104, 831.1105 (a)-(b), 831.1111 (a)-(b), 831.1112 (a)-(b), 831.1203(d), 831.1204 (a)-(b), 831.1205 (a)-(b), and 831.1206 are amended to use the words "Bureau" and "Director of the Bureau" in lieu of "Bureau of Retirement and Insurance" and "Director". Effective on publication in the FEDERAL REGISTER the following amendments are made.

(1) Part 630 is amended as set out below.

Subpart D—Sick Leave

* * * * *

§ 630.407 Sick leave used in computation of annuity.

Sick leave which is used in the computation of annuity for an employee shall be charged against his sick leave account and may not thereafter be used, transferred, or recredited.

(5 U.S.C. 6311)

* * * * *

(2) Part 831 is amended as set out below.

Subpart A—Administration and General Provisions

§ 831.101 Administration.

* * * * *

(c) For purposes of this part, the term "Bureau" means the Bureau of Retirement, Insurance, and Occupational Health in the Commission.

* * * * *

§ 831.107 Appeals.

(a) Except as provided in Subparts K and L of this part, a department, agency, or individual whose rights or interest under subchapter III of chapter 83 of title 5, United States Code, are adversely affected by a final action or order of the Bureau may appeal to the Commission's Board of Appeals and Review from the action or order, as provided in this section, or as provided in § 831.1205 in the case of an appeal from a final action or order of the Bureau that involves an application for disability retirement filed by an employee or by an agency. As used in this section, "days" means calendar days and not workdays.

(b) The individual or his authorized representatives may file the appeal with the Commission's Board of Appeals and Review. However, the Board shall not accept an appeal until the Bureau has completed action.

(c) (1) Except as provided in this paragraph, the time for filing an appeal is not later than 6 months from the date of mailing notice of the final action or order of which complaint is made.

(2) When the Bureau finds, on medical examination, that a disability annuitant has recovered, or determines that he has been restored to earning capacity, the time for filing an appeal is not later than 90 days from the date of receipt of final notice of the proposed discontinuance of annuity. When the Bureau denies reinstatement of the disability annuity of a former disability annuitant, the time for filing an appeal is not later than 90 days from the date of receipt of final notice of the denial.

(3) When the Bureau allows one of simultaneously contested claims and disallows another, the time for filing an appeal is not later than 60 days from the date of receipt of notice of the adverse decision. When an appeal is filed, the Commission shall notify, by certified letter, each party whose interest may be adversely affected by the decision on appeal. This notice shall inform the party of the filing of the appeal and of the substance thereof. Each party may file a brief of argument in answer within 30 days after receipt of notice of the appeal. A certified letter of appeal which is addressed to the last known post office address of a party is deemed sufficient evidence of notice even though it is returned unclaimed.

(d) Each appeal shall show the name and post office address of appellant, his retirement claim number, the date and substance of the action from which the appeal is taken, and full reasons for the appeal.

(e) When the Bureau decides that a party does not have a right to appeal or that this section does not authorize consideration of the appeal, the party may apply to the Commissioners for an order directing the Bureau to forward the record to the Board of Appeals and Review for adjudication as an appeal. The application shall be in writing and shall set forth fully and specifically the grounds on which it is based.

(f) Except as provided in this section, the Bureau shall execute the decision of the Board of Appeals and Review within 60 days from the date of receipt of notice of the decision, unless the Board sooner recalls the decision. The Board of Appeals and Review shall mail an explanation of its decision to the appellant or his authorized representative.

(g) In a simultaneously contested claim referred to in paragraph (c)(4) of this section, the Bureau shall not execute the decision of the Board of Appeals and Review for 30 days. Within this period a party may file a motion for reconsideration.

(h) The board of Appeals and Review will consider an appeal to review a decision of the Secretary of the Interior before July 21, 1930, or of the Administrator of Veterans' Affairs before September 1, 1934, on a civil service retirement case only when the Bureau has reconsidered the case on the basis of newly discovered material evidence. This section applies to the Bureau's decision on reconsideration.

* * * * *

Subpart C—Credit for Service

§ 831.301 Military service.

* * * * *

(b) An applicant for annuity who is in receipt of retired pay which bars credit for his military service may elect to surrender the retired pay and to have his military service added to his period of civilian service for the purpose of obtaining a greater benefit in the form of annuity. When it appears on the adjudication of a claim for annuity that the employee will benefit from relinquishment of retired pay and inclusion of his military service, the Bureau shall so advise him and permit him to exercise the right of election.

§ 831.302 Unused sick leave.

(a) For annuity computation purposes, the service of an employee who retires on immediate annuity or dies leaving a survivor entitled to annuity is increased by the days of unused sick leave to his credit under a formal leave system.

(b) An immediate annuity is one which begins to accrue not later than 1 month after the employee is separated.

(c) A formal leave system is one which is provided by law or regulation or operates under written rules specifying a group or class of employees to which it applies and the rate at which sick leave is earned.

(d) In general, 8 hours of unused sick leave increases total service by 1 day. In cases where more or less than 8 hours of sick leave would be charged for a day's absence, total service is increased by the number of days in the period between the date of separation and the date that the unused sick leave would have expired had the employee used it (except that holidays falling within the period are

treated as work days, and no additional leave credit is earned for that period).

(e) If an employee's tour of duty changes from part time to full time or full time to part time within 180 days before retirement, the credit for unused sick leave is computed as though no change had occurred.

* * * * *

Subpart K—Prohibition on Payment of Annuities

§ 831.1104 Notice.

* * * * *

When the Director of the Bureau determines that subchapter II of chapter 83 of title 5, United States Code, apears to prohibit payment of annuity, he shall notify the annuitant in writing of his intention to withhold payment of the annuity. The notice shall set forth the reasons for this determination. The notice may be served by registered or certified mail and shall inform the annuitant that he is entitled to submit an answer and request a hearing.

§ 831.1105 Answer; request for hearing.

(a) The annuitant has 30 calendar days from the day he receives the notice within which to submit an answer and to request a hearing. The Director of the Bureau may extend this time limit for good cause shown. If the annuitant answers, he shall specifically admit, deny, or explain each fact alleged in the notice, unless he states that he is without knowledge. If a hearing is desired, the annuitant must file a specific request therefor with or as a part of his answer.

(b) An annuitant who fails to answer or to request a hearing within the time permitted under paragraph (a) of this section is considered to have waived his right to answer or to a hearing. If an annuitant neither answers nor requests a hearing within the time permitted, or answers but fails to request a hearing, the Director of the Bureau shall decide the case on the basis of the administrative record, including the notice and any documents, affidavits, or other relevant evidence. The decision of the Director of the Bureau shall (1) be served on the annuitant or his counsel by certified or registered mail; (2) include a statement of findings and conclusions with the reasons therefor; and (3) become the final decision of the Commission unless the case is appealed or reviewed pursuant to § 831.1111.

* * * * *

§ 831.1111 Appeal and review.

(a) An appeal from an initial decision, or a decision of the Director of the Bureau under § 831.1105(b), may be made to the Commission, with service on the other party, within 30 calendar days from the date of the decision. An appeal shall be in writing and shall state plainly and concisely the grounds for the appeal, with a specific reference to the record when issues of fact are raised. The other party may file an opposition to the appeal within 15 days after service on him. On notice to the parties, the Commission may extend the time limits prescribed in this paragraph.

(b) Within 30 calendar days from the date of an initial decision or a decision of the Director of the Bureau, the Commission, on its own motion, may direct that the record be certified to it for review.

§ 831.1112 Final decision.

(a) On appeal from or review of an initial decision or a decision of the Director of the Bureau, the Commission shall decide the case on the record. The record shall include the notice, answer, transcript of testimony and exhibits, briefs, the initial decision or the decision of the Director of the Bureau, the papers filed in connection with the appeal and opposition to the appeal and all other papers, requests and exceptions filed in the proceeding.

(b) The Commission may adopt, modify, or set aside the findings, conclusions, or order of the presiding officer or the Director of the Bureau.

* * * * *

Subpart L—Disability Retirement on Application of an Agency and Disability Retirement Appeals

* * * * *

§ 831.1203 Agency action.

* * * * *

(d) *Decision.* The employee is entitled to a written decision from the agency at the earliest practicable date. The decision shall include a statement of findings and conclusions. When the decision is to file an application for disability retirement, the agency shall file the application and retirement file with the regional office of the Commission or the Bureau as appropriate.

§ 831.1204 Notice of receipt of application.

(a) The Commission office that receives the application first reviews it for compliance with the procedures in § 831.1203. If there has not been compliance, the Commission office remands the application to the agency and notifies the employee of the remand. If there has been compliance with the required procedures, the Commission office notifies the agency and the employee in writing that it has received the application. The same notice informs the employee that he is entitled to:

(1) Participate in the selection of a medical examiner when the Commission determines under § 831.502(a) that a medical examination is necessary;

(2) Be examined without cost to him; and

(3) Submit further relevant evidence as provided in the notice. A regional medical officer will forward the file to the Bureau upon completion of his action.

(b) Decision: After considering the employee's retirement file, the Bureau either approves or disapproves the application. The Bureau's decision shall be in writing and a copy shall be given to the employee and the agency concerned. The decision shall set forth the Bureau's findings and conclusions and shall inform the employee and the agency of the right of appeal and hearing provided by § 831.1205.

§ 831.1205 Appeal and hearing.

(a) Right of appeal and hearing. An agency or an employee may appeal the decision of the Bureau that involves an application for disability retirement filed by an employee or by an agency to the Appeals Examining Office or a regional office of the Commission as appropriate. The appeal shall be in writing, set forth the reasons for the appeal, request a hearing if the appellant desires a hearing, and be filed with the appropriate office within 15 calendar days after receipt of the decision of the Bureau. The Appeals Examining Office or regional office of the Commission may extend this time limit for good cause shown.

(b) Subpart C of Part 772 of this chapter applies to appeals to the Commission from decisions of the Bureau involving applications for disability retirement.

§ 831.1206 Duty status.

An agency shall retain an employee in an active duty status until it receives the decision of the Bureau on an agency application for disability retirement, except that the agency on the basis of medical evidence may place an employee on leave with his consent, or without his consent when the circumstances are such that his retention in an active duty status may result in damage to Government property, or may be detrimental to the interests of the Government, or injurious to the employee, his fellow workers, or the general public. If the leave account of the employee is or becomes exhausted, any suspension or involuntary leave without pay shall be affected in accordance with applicable laws, Executive orders, and regulations.

(5 U.S.C. 8347)

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

[F.R. Doc. 69-12988; Filed, Oct. 30, 1969; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Milk Order No. 7]

PART 1007—MILK IN GEORGIA 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 Georgia 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 administrators for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to:

(i) Producer milk (including such handler's own production);

(ii) Other source milk allocated to Class I pursuant to § 1007.45(a) (5) and (9) and the corresponding steps of § 1007.45(b); and

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

(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 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 Georgia marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

Section 1007.6 is revised to read as follows:

§ 1007.6 Georgia marketing area.

The "Georgia marketing area", hereinafter called the "marketing area", means all the territory, including all waterfront facilities connected therewith, geographically within the boundaries of the State of Georgia except the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Rabun, Walker, and Whitfield. The marketing area shall include all territory that is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part of such territory is within the designated geographical limits of the marketing area.

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

Effective date: December 1, 1969.

Signed at Washington, D.C., on October 28, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69-13025; Filed, Oct. 30, 1969; 8:48 a.m.]

[Milk Order No. 90]

PART 1090—MILK IN CHATTANOOGA, TENN., 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 Chattanooga, Tenn., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(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 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 Chattanooga, Tenn., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. Section 1090.6 is revised to read as follows:

§ 1090.6 Producer.

"Producer" means any approved dairy farmer, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, whose milk is physically received at a pool plant or

diverted pursuant to § 1090.11 from a pool plant to a nonpool plant. "Producer" shall not include an approved dairy farmer with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

2. Section 1090.11 is revised to read as follows:

§ 1090.11 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant (except a producer-handler plant), subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant from which diverted;

(2) In any month of September through November that less than 4 days' production of a producer is delivered to pool plants, the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) Milk may be diverted to an other order plant only if a Class II classification (or its equivalent) is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such orders;

(4) A cooperative association may divert for its account the milk of any member-producer: *Provided*, That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received from member-producers at all pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(5) The operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association: *Provided*, That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received at such pool plant during the month from producers who are not members of a cooperative association shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (4) and (5) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

3. Section 1090.51(a) is revised to read as follows:

§ 1090.51 Class prices.

* * * * *

(a) *Class I milk price.* The price per hundredweight for Class I milk for the month shall be the basic formula price for the preceding month plus $1.95 and plus 20 cents.

* * * * *

4. Section 1090.53(a) is revised to read as follows:

§ 1090.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant that is north of either the southern boundary of the State of Tennessee or the northern boundary of the State of South Carolina and more than 65 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the city hall in Chattanooga shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles (by the shortest hard-surface highway distance as determined by the market administrator) that such plant is from the city hall in Chattanooga; and

* * * * *

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

Effective date: December 1, 1969.

Signed at Washington, D.C., on October 28, 1969.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 69–13024; Filed, Oct. 30, 1969; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Cream Cheese, Identity Standard; Confirmation of Effective Date of Order Listing Liquid, Dried, and Condensed Forms of Whey as Optional Ingredients

In the matter of amending the identity standard for cream cheese (§ 19.515) to list cheese whey and its dried and condensed forms as optional ingredients for cream cheese:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of September 5, 1969 (34 F.R. 14070). Accordingly, the amendment promulgated by that order will become effective November 4, 1969.

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69–12995; Filed, Oct. 30, 1969; 8:46 a.m.]

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

Dicamba

A petition (PP 9FO849) was filed with the Food and Drug Administration by the Velsicol Chemical Corp., 1725 K Street NW., Washington, D.C. 20006, proposing the establishment of tolerances for combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid in or on the raw agricultural commodities sorghum grain and forage at 3 parts per million. Subsequently, the petitioner amended the petition by proposing that the tolerance be extended to include sorghum fodder. These tolerances would replace those previously established on these commodities at 0.5 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Since residues of the pesticide are not reasonably expected to transfer to meat, poultry, and eggs from the proposed use, tolerances regarding these items are unnecessary. The usage is classified in the category specified in § 120.6(a)(3).

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.227 is revised to read as follows:

§ 120.227 Dicamba; tolerances for residues.

Tolerances are established for the combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid in or on raw agricultural commodities as follows:

40 parts per million in or on grasses (pasture and rangeland) and grass hay.

3 parts per million in or on sorghum (grain, fodder, and forage).

0.5 part per million in or on corn (grain, fodder, and forage) and grain and straw of barley, oats, and wheat.

0.05 part per million (negligible residue) in milk.

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

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-12996; Filed, Oct. 30, 1969; 8:46 a.m.]

PART 20—FROZEN DESSERTS

Nonfruit Sherbets, Nonfruit Water Ices; Confirmation of Effective Date of Order Establishing Identity Standards

In the matter of establishing definitions and standards of identity for nonfruit sherbets (§ 20.6) and nonfruit water ices (§ 20.7):

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of September 5, 1969 (34 F.R. 14071). Accordingly, the regulations promulgated by that order will become effective November 4, 1969.

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-12997; Filed, Oct. 30, 1969; 8:46 a.m.]

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

2,4,5,6-Tetrachloroisophthalonitrile

A petition (PP 9F0743) was filed with the Food and Drug Administration by the Diamond Shamrock Corp., 300 Union Commerce Building, Cleveland, Ohio 44115, proposing the establishment of a tolerance of 0.1 part per million for the combined negligible residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity potatoes.

The Secretary of Agriculture has certified that this pesticide is useful for the purpose for which the tolerance is being established.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that:

1. Tolerances are unnecessary regarding meat and milk since the proposed usage is not reasonably expected to result in residues of the fungicide in these commodities from the feeding of treated potatoes to livestock. This use is classified in the category specified in § 120.6(a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.275 2,4,5,6-Tetrachloroisophthalonitrile; tolerances for residues.

A tolerance of 0.1 part per million is established for the combined negligible residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity potatoes.

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

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-12998; Filed, Oct. 30, 1969; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER B—SALES AND SERVICE

PART 816—SERVICE CLUB PROGRAM

§ 816.10 [Amended]

1. In § 816.10 paragraph (f) is amended by deleting the word "beer" from this paragraph.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012 except as otherwise noted) (Change 1, Oct. 9, 1968 to AFR 215-3, Aug. 5, 1964)

SUBCHAPTER G—BOARDS

PART 865—PERSONNEL REVIEW BOARDS

2. Section 865.3 is revised by amending paragraph (a)(1) to read as follows:

§ 865.3 Application for correction.

(a) *General requirements*—(1) *Submission.* Submit the application for correction on DD Form 149, "Application for Correction of Military or Naval Record," or exact facsimile thereof, and send it to: USAFMPC (AFPMDRA-1B), Randolph AFB, TX 78148. Forms and explanatory matter may also be obtained from this office.

* * * * *

(Sec. 1552, 8012, 70A Stat. 116, 488; 10 U.S.C. 1552, 8012) (Change 1, Mar. 11, 1968 to AFR 31-3, Jan. 2, 1962)

SUBCHAPTER H—AIR RESERVE OFFICERS' TRAINING CORPS

PART 874—AIR FORCE ROTC SUBSISTENCE ALLOWANCE AND RATES OF COMMUTATION IN LIEU OF UNIFORMS

§ 874.4 [Amended]

3. In § 874.4 paragraph (a) is amended by changing the words "Universal Military Training and Service Act" to "Military Selective Service Act of 1967", and § 874.7 is revised to read as follows:

§ 874.7 Commutation rates for Air Force ROTC cadet uniforms.

The following commutation clothing rates are prescribed effective school year 69-70 (July 1, 1969):

	Standard rate		Special rate	
	Zone I	Zone II	Zone I	Zone II
General Military Course (GMC) (per year)	$30.00	$38.00	$60.00	$76.00
Professional Officer Course (POC)	97.00	128.00	194.00	256.00
Field Training	20.00	26.00	20.00	26.00

ZONE I

Alabama.
Arizona, only 100-mile-wide belt along southern border.
Arkansas, southern two-thirds.
California.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Kentucky, southeastern one-third.
Louisiana.
Maryland.
Mississippi.
New Mexico, only 100-mile-wide belt along southern border.
North Carolina.
Oklahoma, only southeastern portion.
Puerto Rico.
South Carolina.
Tennessee, except northwest corner.
Texas, except area north of 34° N.
Virginia.

ZONE II

Alaska.
*Arizona, except 100-mile-wide belt along southern border.
*Arkansas, northern one-third.
Colorado.
Connecticut.
Idaho
Illinois.
Indiana.
Iowa.
Kansas.
*Kentucky, northwestern two-thirds.
Maine.
Massachusetts.
Michigan.
Minnesota.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
*New Mexico, except a 100-mile-wide belt along southern border.
New York.
North Dakota.
Ohio.
*Oklahoma, except southeast portion.
Oregon.
Pennsylvania.
Rhode Island.
South Dakota.
*Tennessee, only northwest corner.
*Texas, only area north of 34° N.
Utah.
Vermont.
Washington.
West Virginia.
Wisconsin.
Wyoming.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012 except as otherwise noted)

[Change 1, Jan. 8, 1969 to AFR 45-25, July 12, 1967]

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, USAF Chief, Special Activities Group, Officer of The Judge Advocate General.

[F.R. Doc. 69-12984; Filed, Oct. 30, 1969; 8:45 a.m.]

* These areas were formerly Zone I and remain entitled to Zone I rates unless an application for change to Zone II is submitted to the major command with evidence that the average monthly temperature of the coldest month for each of the past 3 consecutive years was below 32° F.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 69-100]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Missouri River

1. Continuous operation of the Missouri River drawbridges is presently required from March 1 through December 1. A 24-hour advance notice is required at all other times. The navigation season frequently extends both before and after these dates. It is reasonable therefore to extend the present continuous operation period. Public procedure was not deemed necessary because the affected bridge owners had actual notice of this proposed action.

2. Accordingly § 117.596 (a) and (b) are revised to read as follows:

§ 117.596 Missouri River; bridges.

(a) The drawbridges across the Missouri River from Sioux City, Iowa, to the mouth shall be opened promptly on signal from March 1 through December 15.

(b) From December 16 through the last day of February, at least 24 hours' advance notice shall be given by telephone or otherwise, to the owner or agency controlling the bridge.

* * * * *

(Secs. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.4(a)(3)(v))

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

Dated: October 24, 1969.

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

[F.R. Doc. 69-12990; Filed, Oct. 30, 1969; 8:45 a.m.]

[CGFR 69-117]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sacramento River and its Tributaries, California

1. The county of Sacramento, Calif., by letter dated August 4, 1969, requested the Commander, 12th Coast Guard District to revise the special operation regulations for its drawbridge across Sutter Slough near the junction with the Sacramento River, approximately mile 6.4. A public notice dated August 12, 1969, setting forth the proposed revision of the regulations governing this drawbridge, presently set forth in 33 CFR 117.716(d), was issued by the Commander, 12th Coast Guard District and was made available to all persons known to have an interest in this subject.

2. After consideration of all comments submitted in response to this proposal the revision is accepted. Accordingly, § 117.716(d) is revised to read as follows:

§ 117.716 Sacramento River and its tributaries, California.

* * * * *

(d) *Sutter Slough: Sacramento County highway bridge near Courtland.* (1) The draw need not be opened for the passage of vessels except when the owner is notified to do so by the Commander, 12th Coast Guard District.

(2) The special operation regulations set forth in § 117.710 shall not apply to this bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.4(a)(3)(v))

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

Dated: October 23, 1969.

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

[F.R. Doc. 69-12989; Filed, Oct. 30, 1969; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Special Discount Package Price to New Dealers

§ 15.384 Special discount package price to new dealers.

(a) The Commission issued an advisory opinion with respect to a proposed special discount package price to new dealers in the building materials industry.

(b) The applicant proposed to offer to new retail dealers a special discount package on certain building materials plus an in-store display. In addition to the in-store display facility the new dealer would be offered a price approximately one-third below the price at which the merchandise is offered to existing dealers. The proposal would be a one-time promotion.

(c) The Commission expressed the view that implementation of the proposed course of action in the manner described probably would violate the Clayton Act, section 2(e), as amended.

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

Issued: October 30, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-13015; Filed, Oct. 30, 1969; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9925; Amdt. 673]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

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

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
				T-dn	300-1	300-1	200-½
				C-dn	600-1	600-1	600-1¼
				S-dn-4	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2
				If Meadows Int., the 5-mile DME or 5-mile Radar Fix received, the following minimums apply:			
				C-dn	500-1	500-1	500-1¼
				S-dn-4	500-1	500-1	500-1

Radar available.
Procedure turn E side of crs, 220° Outbnd, 040° Inbnd, 1500' within 10 miles.
Minimum altitude over Meadows Int, the 5-mile DME or 5-mile Radar Fix, 676'.
Breakoff point to approach end of runway, 038°—0.45 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of ACY VOR, turn left and climb to 1600' on ACY VOR R 039° to Gretna Int. Hold E, 1 minute, left turns, Inbnd crs, 275°.
CAUTION: Radar tower 230', 0.7 mile SW approach end of Runway 4.
MSA within 25 miles of facility: 000°-270°—1400'; 270°-360°—1600'.

City, Atlantic City; State, N.J.; Airport name NAFEC/Atlantic City (Pomona); Elev., 76'; Fac. Class., L-BVORTAC; Ident., ACY; Procedure No. VOR Runway 4, Amdt. 7; Eff. date, 20 Nov. 69; Sup. Amdt. No. TerVOR-4, Amdt. 6; Dated, 10 Dec. 66

				T-dn	300-1	300-1	200-½
				C-dn	700-1	700-1	700-1¼
				S-dn-31	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2
				If Great Bay Int., the 5-mile DME Fix or the 5-mile Radar Fix received, the following minimums apply:			
				C-dn	500-1	500-1	500-1¼
				S-dn-31*	400-1	400-1	400-1

Radar available.
Procedure turn N side of crs, 121° Outbnd, 301° Inbnd, 1500' within 10 miles.
Minimum altitude over Great Bay Int., the 5-mile DME Fix or the 5-mile Radar Fix on final approach crs, 776'.
Breakoff point to runway, 307°—0.3 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile of ACY VOR, turn right and climb to 1600' on ACY VOR R 039° to Gretna Int. Hold E, 1 minute, left turns, Inbnd crs, 275°.
CAUTION: Radar tower 230', 0.7 mile SW approach end of Runway 4.
*400-¾ authorized with operative high-intensity runway lights except for 4-engine turbojets.
MSA within 25 miles of facility: 000°-270°—1400'; 270°-360°—1600'.

City, Atlantic City; State, N.J.; Airport name, NAFEC/Atlantic City (Pomona); Elev., 76'; Fac. Class., L-BVORTAC; Ident., ACY; Procedure No. VOR Runway 31, Amdt. 7; Eff. date, 20 Nov. 69; Sup. Amdt. No. TerVOR-31, Amdt. 6; Dated, 10 Dec. 66

ELX VOR	Zang Int (final)	Direct	2300	T-dn	300-1	300-1	200-½
				C-dn#	400-1	400-1	500-1¼
				S-dn-27§#	400-1	400-1	400-1
				A-dn#	800-2	800-2	800-2

Procedure turn N side of crs, 086° Outbnd, 266° Inbnd, 2300' within 10 miles of Zang Int.
Minimum altitude over Zang Int on final approach crs, 2300'.
Crs and distance, Zang Int to airport, 266°—4.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.5 miles after passing the Zang Int, climb to 2300' on ELX VOR R 266°, turn left and return to Zang Int, and contact SBN approach control for further instructions.
NOTES: (1) Reduction not authorized for REILs. (2) Use South Bend altimeter setting when control zone not effective. (3) Dual VOR receivers or DME required.
§ 400-¾ authorized with HIRL, except for 4-engine turbojets.
# These minimums apply at all times for air carriers with approved weather reporting service.
* Circling and straight-in ceiling minimums are raised (100') and alternate minimums not authorized when control zone not effective.
MSA within 25 miles of facility: 045°-225°—2400'; 225°-315°—2200'; 315°-045°—2300'.

City, Benton Harbor; State, Mich.; Airport name, Ross Field; Elev., 642'; Fac. Class., L-BVORTAC; Ident., ELX; Procedure No. VOR Runway 27, Amdt. 8; Eff. date, 20 Nov. 69; Sup. Amdt. No. 7; Dated, 1 Feb. 68

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

Nome, Alaska—Nome, LFR 1, Amdt. 6, 16 May 1964 (established under Subpart C).
Alton, Ill.—Civic Memorial, ADF 1, Amdt. 2, 9 Apr. 1966 (established under Subpart C).
Alton, Ill.—Civic Memorial, ADF 2, Amdt. 2, 9 Apr. 1966 (established under Subpart C).
Dayton, Ohio—James M. Cox Dayton Municipal, NDB (ADF) Runway 24, Amdt. 7, 4 Mar. 1967 (established under Subpart C).
Klamath Falls, Oreg.—Kingsley Field, NDB (ADF) Runway 32, Amdt. 5, 9 Nov. 1967 (established under Subpart C).
Little Rock, Ark.—Adams Field, ADF 1, Amdt. 8, 24 Dec. 1966 (established under Subpart C).
Millville, N.J.—Millville Municipal, ADF 1, Orig., 10 Nov. 1966 (established under Subpart C).
Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton, NDB (ADF) Runway 4, Amdt. 9, 7 Dec. 1967 (established under Subpart C).
Klamath Falls, Oreg.—Kingsley Field, VOR Runway 32, Amdt. 1, 16 Dec. 1967 (established under Subpart C).
Little Rock, Ark.—Adams Field, VOR 1, Amdt. 10, 6 June 1964 (established under Subpart C).
Nome, Alaska—Nome, VOR 1, Amdt. 5, 26 Nov. 1966 (established under Subpart C).

3. By amending § 97.13 of Subpart B to delete terminal very high frequency omnirange (TerVOR) procedures as follows:

Frederick, Md.—Frederick Municipal, TerVOR-23, Amdt. 2, 28 Nov. 1964 (established under Subpart C).

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

Klamath Falls, Oreg.—Kingsley Field, VOR/DME Runway 32, Amdt. 1, 16 Dec. 1967 (established under Subpart C).
Nome, Alaska—Nome, VOR/DME Runway 9, Amdt. 1, 30 Dec. 1967 (established under Subpart C).

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Atlantic City VOR	LOM	Direct	1500	T-dn	300-1	300-1	200-½
Millville VOR	NW crs, ILS (final)	101°—9.7 miles	1700	C-dn	500-1	500-1	500-1½
Gretna Int	LOM	Direct	1500	S-dn-13	200-½	200-½	200-½
White Horse Int	LOM	Direct	1500	A-dn	600-2	600-2	600-2
				Minimums with glide slope inoperative:			
				S-dn-13*	300-½	300-½	300-½

Radar available.
Procedure turn S side of crs, 308° Outbnd, 128° Inbnd, 1500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 1400'.
Altitude of glide slope and distance to approach end of runway at OM, 1319'—4.3 miles; at MM, 272'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing OM, climb straight ahead to 500' then make left-climbing turn to 1000', proceed via ACY, VOR, R 039° to Gretna Int. Hold E, 1 minute, left turns, Inbnd Crs, 275°.
CAUTION: Radar tower 230', 0.7 mile SW approach end Runway 4; 215' towers on N side of field.
*300-½ for 4-engine turbojets.
MSA within 25 miles of LOM: 000°-090°—1600'; 090°-180°—1400'; 180°-270°—1600'; 270°-360°—2100'.

City, Atlantic City; State, N.J.; Airport name, NAFEC/Atlantic City (Pomona); Elev., 76'; Fac. Class., ILS; Ident., I-ACY; Procedure No. ILS Runway 13, Amdt. 16; Eff. date, 20 Nov. 69; Sup. Amdt. No. 9; Dated, 2 May 68

Salem VOR	LOM	Direct	2600	T-dn*	300-1	300-1	200-½
YIP LOM	LOM	Direct	2300	C-dn	400-1	500-1	500-1½
Creek Int	LOM (final)	Direct	2300	S-dn-3L$**	200-½	200-¼	200-½
Carleton VOR	LOM (final)	Via CRL, R 010° and Loc crs.	2300	S-dn-3R#	400-1	400-1	400-1
				A-dn	600-2	600-2	600-2
Milan Int	LOM	Direct	2300	Category II special authorization required: TDZ elevation, 638'. Decision height—S-dn-3L, DH 150', RVR 1600', 788' MSL, RA 154'; S-dn-3L, DH 100', RVR 1200', 738' MSL, RA 104'.			

Radar available.
Procedure turn E side of crs, 212° Outbnd, 032° Inbnd, 2300' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2300'.
Altitude of glide slope and distance to approach end of runway at LOM, 2246'—5.9 miles; at LMM, 841'—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing LOM, make left-climbing turn to 2300' and proceed to YIP VOR or, when directed by ATC, make left-climbing turn to 2300' and return to DT LOM. Category II missed approach: Climb to 1000', then make left-climbing turn to 2400' and proceed to YIP VOR.
NOTES: Distance DH 150' to runway, 2281'. Distance DH 100' to runway, 1136'. Distance Inner Marker to 3L, 1111'.
$400-¾ required when glide slope not utilized: 400-1½ authorized with operative ALS except for 4-engine turbojets.
#Crs and distance, OM to Runway 3R, 037°—6.4 miles.
*RVR 2400' authorized Runways 3L and 21R.
**RVR 2000'. 4-engine turbojets; RVR 1800' other aircraft.

City, Detroit (Romulus); State, Mich.; Airport name, Detroit Metropolitan-Wayne County; Elev., 639'; Fac. Class., ILS; Ident., I-DTW; Procedure No. ILS-3L/R, Amdt. 18; Eff. date, 20 Nov. 69; Sup. Amdt. No. 17; Dated, 3 Oct. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
MKE VOR	LOM	Direct	2500	T-dn**	300–1	300–1	200–½
Big Bend Int	LOM	Direct	2500	C-dn	500–1	500–1	500–1½
Racine Int	LOM	Direct	2500	S-dn–1*$	200–½	200–½	200–½
Cardinal Int	LOM	Direct	2700	A-dn	600–2	600–2	600–2
Wind Lake Int	LOM	Direct	2500	Category II special authorization required: TDZ elevation 702'. Decision heights—S-dn-1, DH 150', RVR 1600', 852' MSL, RA 152'; S-dn-1, DH 100', RVR 1200', 802' MSL, RA 102'.			
Horlick Int	LOM	Direct	2500				
Oakwood Int	LOM (final)	Direct	2500				

Radar available.
Procedure turn E side S crs, 186° Outbnd, 006° Inbnd, 2500' within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2500'.
Altitude of glide slope and distance to approach end of runway at OM, 2370'—5.5 miles; at MM, 919'—0.6 mile.
Distance HAT 150' to runway threshold 2102'. Distance IM to runway threshold 1039'. Distance from runway threshold to GPI 1020'.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2700' on 006° bearing from LOM and proceed direct to the North Park RBn, or when directed by ATC, climb to 2000' and intercept R 110° MKE VOR and proceed to MKE VOR.
Category II missed approach: Climb to 2700' on 006° bearing from LOM and proceed direct to the North Park RBn if contact with visual guidance system not established at DH.
NOTE: Runway 1 LOM named METRO.
*RVR 2000' 4-engine turbojet; RVR 1800' other aircraft, descent below 922' not authorized unless approach lights visible.
**RVR 1800' authorized Runway 1, RVR 2400' authorized Runway 7R, RVR 4000' authorized Runway 19 Category 2-engines or less, RVR 2400' authorized Runway 19 Category more than 2-engines more than 65 KTS.
$400–¾ required when glide slope not utilized and 400–½ authorized with operative ALS except for 4-engine turbojets.
MSA within 25 miles of LOM: 000°–270°—2200'; 270°–000°—2800'.

City, Milwaukee; State, Wis.; Airport name, General Mitchell Field; Elev., 722'; Fac. Class., ILS; Ident., I-MKE; Procedure No. ILS Runway 1, Amdt. 25; Eff. date, 20 Nov. 69; Sup. Amdt. No. 24; Dated, 30 Dec. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
MKE VOR	ILW RBn	Direct	2700	T-dn*	300–1	300–1	200–½
MK LOM	ILW RBn	Direct	2700	C-dn	500–1	500–1	500–1½
MWC VOR	ILW RBn	Direct	2700	S-dn-19$	400–1	400–1	400–1
Cardinal Int	ILW RBn (final)	Direct	2400	A-dn	800–2	800–2	800–2

Radar available.
Procedure turn W side of crs, 006° Outbnd, 186° Inbnd, 2700' within 10 miles of ILW RBn.
Minimum altitude over ILW RBn or Radar Fix on final approach crs, 2400'; over Harbor Int or Radar Fix, 1900'.
Crs and distance, ILW RBn to airport, 186°—6.1 miles; Harbor Int to airport, 186°—4.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.1 miles after passing Harbor Int, climb to 2100' on S crs ILS within 10 miles of MK LOM.
NOTE: Dual VOR receivers and ADF or radar required.
*RVR 1800' authorized Runway 1, RVR 2400' authorized Runway 7R, RVR 4000' authorized Runway 19 Category 2-engine or less, RVR 2400' authorized Runway 19 Category more than 2-engine more than 65 KTS.
$400–¾ (RVR 4000') authorized with operative high-intensity runway lights except for 4-engine turbojets. ILW Rbn named North Park.

City, Milwaukee; State, Wis.; Airport name, General Mitchell Field; Elev., 722'; Fac. Class., ILS; Ident., I-MKE; Procedure No. LOC (BC) Runway 19, Amdt. 4; Eff. date, 20 Nov. 69; Sup. Amdt. No. ILS-19 (BC), Amdt. 3; Dated, 3 Dec. 66

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

Klamath Falls, Oreg.—Kingsley Field, ILS Runway 32, Amdt. 8, 19 Sept. 1968 (established under Subpart C).
Little Rock, Ark.—Adams Field, ILS-4, Amdt. 10, 24 Dec. 1966 (established under Subpart C).
Little Rock, Ark.—Adams Field, ILS-22, Amdt. 2, 14 Mar. 1964 (back crs) (established under Subpart C).
Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton, ILS Runway 4, Amdt. 21, 7 Dec. 1967 (established under Subpart C).

7. By amending § 97.19 of Subpart B to amend radar procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
		Within:			Surveillance approach		
052°	030°	26 miles	1700	T-dn	300-1	300-1	300-1½
				C-dn	500-1	500-1	500-1½
All sectors		9 miles	1500	S-dn*#¢§	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Radar terminal area transition altitudes—All bearings from the radar site with sector azimuths progressing clockwise.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runways 13 and 17—Make a left-climbing turn to 1600' on ACY VOR R 039° to Gretna Int. Hold E, 1 minute, left turns, Inbnd crs, 275°. Runways 4, 8, 22, 26, 31, and 35—Make right-climbing turn to 1600' on ACY VOR R 039° to Gretna Int. Hold E, 1 minute, left turns, Inbnd crs, 275°.

CAUTION: Radar tower 230' 0.7 mile SW, Runway 4; 215' towers on N side of field.

*400-1 authorized for Runways 13, 26, and 31.

#400-¾ authorized, except for 4-engine turbojet aircraft, with operative high-intensity runway lights for Runways 13 and 31.

¢400-½ authorized, except for 4-engine turbojet aircraft, with operative ALS Runway 13.

§Runway 35 only—Maintain 700' until passing the 3-mile Radar Fix.

City, Atlantic City; State, N.J.; Airport name, NAFEC/Atlantic City (Pomona); Elev., 76'; Facility, Atlantic City Radar; Procedure No. Radar-1, Amdt. 8; Eff. date, 20 Nov. 69; Sup. Amdt. No. 7; Dated, 2 May 68

8. By amending § 97.19 of Subpart B to delete radar procedures as follows:

Klamath Falls, Oreg.—Kingsley Field, Radar 1, Amdt. 2, 16 Jan. 1969 (established under Subpart C).
Little Rock, Ark.—Adams Field, Radar 1, Amdt. 3, 19 Nov. 1966 (established under Subpart C).
Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton, Radar 1, Amdt. 4, 7 Dec. 1967 (established under Subpart C).

9. By amending § 97.21 of Subpart C to establish low or medium frequency range (L/MF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LFR

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3 miles after passing OE LFR.
OME VORTAC	OE LFR	Direct	3000	Climbing left turn to 2100' direct to OE LFR. Supplementary charting information: 1152' mountain 3.7 miles NE of airport. 1062' mountain 2.7 miles N of airport. Runway 27, TDZ elevation, 13'.

Procedure turn S side of crs, 060° outbnd, 240° Inbnd, 2300' within 10 miles of OE LFR.
FAF, OE LFR. Final approach crs, 264°. Distance FAF to MAP, 3 miles.
Minimum altitude over OE LFR, 1200'.
MSA: NE—4700'; SE—2200'; SW—2600'; NW—5800'.
%IFR departures must comply with published Nome SID's.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27	460	1	447	460	1	447	460	1	447	460	1	447
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	460	1	423	500	1	463	500	1¼	463	700	2	663
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Nome; State, Alaska; Airport name, Nome Airport; Elev., 37'; Facility, OE LFR; Procedure No. LFR Runway 27, Amdt. 7; Eff. date, 20 Nov. 69; Sup. Amdt. No. LFR 1, Amdt. 6; Dated, 16 May 64

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 11.2-mile DME Fix or 5.2 miles after passing Topaz Int.
R 282°, TOY VORTAC CW	R 322°, TOY VORTAC	21-mile Arc	2200	Climbing left turn to 2200' to R 322° TOY VORTAC to Topaz Int; or, when directed by ATC, climbing left turn to 2200' direct to ALN NDB.
R 114°, TOY VORTAC CCW	R 322°, TOY VORTAC	21-mile Arc	2200	
Fidelity Int	Badger Int	Direct	2200	
Badger Int	Topaz Int (NOPT)	TOY R 322°	2200	
TOY VORTAC	Topaz Int	TOY R 322°	2200	Supplementary charting information: Final approach crs to intersection of Runways 11 and 17.

Procedure turn E side of crs, 322° Outbnd, 142° Inbnd, 2200' within 10 miles of Topaz Int.
FAF, Topaz Int. Final approach crs, 142°. Distance FAF to MAP, 5.2 miles.
Minimum altitude over Topaz Int (16.4-mile DME Fix), 2200'; over 13-mile DME Fix, 1060'.
MSA: 000°-090°—2000'; 090°-180°—2200'; 180°-270°—2700'; 270°-360°—2100'.
NOTES: (1) Radar vectoring. (2) Dual VOR or VOR/DME required.
*Alternate minimums not authorized when control zone not effective except for operators with approved weather reporting service.
$Use St. Louis, Mo., altimeter setting when control zone not effective and all MDA's increase 60' except operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C$	1060	1	516	1060	1	516	1060	1½	516	1100	2	556
	DME Minimums:											
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C$	980	1	436	1000	1	456	1000	1½	456	1100	2	556
A	Standard.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Alton; State, Ill.; Airport name, Civic Memorial; Elev., 544'; Facility, Toy; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 20 Nov. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 0 mile after passing FDK VOR.
Sugar Loaf Int	FDK VOR	Direct	2800	Climb to 2300' on R 219°, left turn direct to FDK VOR and hold.
EMI VORTAC	FDK VOR	Direct	2500	Supplementary charting information: Hold NE, 1 minute, left turns, 2300', 219° Inbnd.

Procedure turn E side of crs, 039° Outbnd, 219° Inbnd, 2300' within 10 miles of FDK VOR.
FAF, Silver Hill Int. Final approach crs, 219°. Distance FAF to MAP, 4 miles.
Minimum altitude over Silver Hill Int, 1200'.
MSA: 000°-090°—3500'; 090°-180°—2400'; 180°-270°—2900'; 270°-360°—3500'.
%For NE departures after takeoff, climb on R 082° to 3000', proceed as cleared.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-23	1200	1	896	1200	1¼	896	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1200	1	896	1200	1¼	896	NA	NA
	Dual VOR Minimums:							
	MDA	VIS	HAT	MDA	VIS	HAT		
S-23	1080	1	776	1080	1	776	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1080	1	776	1080	1	776	NA	NA
A	Not authorized.		T 2-eng. or less—Standard. %				T over 2-eng.—Not authorized.	

City, Frederick; State, Md.: Airport name, Frederick Municipal; Elev., 304'; Facility, FDK; Procedure No. VOR Runway 23, Amdt. 3; Eff. date, 20 Nov. 69; Sup. Amdt. No. Ter VOR-23, Amdt. 2; Dated, 28 Nov. 64

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: LMT VOR.
			Climbing left turn to intercept and climb on R 263° LMT VOR to 7500' within 10 miles. All maneuvering N of R 263. Supplementary charting information: Approach crs 500' right of centerline 3000' from threshold.

Procedure turn W side of crs, 144° Outbnd, 324° Inbnd, 7500' within 10 miles of LMT VOR.
Final approach crs, 324°.
MSA: 000°-090°—8300'; 090°-180°—7600'; 180°-360°—9300'.
NOTE: ASR/PAR.
#Air carrier reduction not authorized.
*Circling not authorized E of Runways 14/32.
%IFR departure procedures: Climb via LMT LOC SE crs/LMT VOR R 140° to 6000', then turn right heading 250° to intercept and proceed via LMT VOR R 162° to cross LMT VOR at or above 7000'; westbound V-122, 6000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D			E		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	5360	1	1268	5360	1½	1268	5360	2	1268	5360	2¼	1268	*5500	3¼	1408
A	Categories A, B, C, 1300-2; Category D, 1300-2¼; Category E, 1500-3¼.		T 2-Eng. or less—%Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.			T over 2-eng.—%Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.									

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Facility, LMT; Procedure No. VOR Runway 32, Amdt. 2; Eff. date, 20 Nov. 69; Sup. Amdt. No. 1; Dated 16 Dec. 67

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.8 miles after passing LIT VOR TAC.
Int LIT R 131° and PBF R 360°	LIT VORTAC (NOPT)	Direct	1500	Climb to 2000' on LIT VORTAC, R 315° within 20 miles. Supplementary charting information: Runway 32, TDZ elevation, 255'.

Procedure turn E side of crs, 131° Outbnd, 311° Inbnd, 2000' within 10 miles of LIT VORTAC.
FAF, LIT VORTAC. Final approach crs, 315°. Distance FAF to MAP, 3.8 miles.
Minimum altitude over LIT VORTAC, 1500'.
MSA: 045°-135°—1800'; 135°-315°—3300'; 315°-045°—2100'.
NOTE: ASR.
#RVR 24' Runway 4, 200-1 required for takeoff Runways 17, 22, 32, and 35.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-32	680	1	425	680	1	425	680	1	425	680	1	425
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	760	1	503	800	1	543	980	1¼	723	980	2	723
A	Standard.		T 2-eng. or less—Standard.#				T over 2-eng.—Standard.#					

City, Little Rock; State, Ark.; Airport name, Adams Field; Elev., 257'; Facility, LIT; Procedure No. VOR Runway 32, Amdt. 11; Eff. date, 20 Nov. 69; Sup. Amdt. No. VOR 1, Amdt. 10; Dated, § June 64

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CLE VORTAC.
				Climbing left turn to heading 249°, climb to 3000'. Return to CLE VORTAC and hold.
				Supplementary charting information: Hold SW, 1 minute, right turns, 069° Inbnd. Runway 7, TDZ elevation, 794'.

Procedure turn N side of crs, 235° Outbnd, 055° Inbnd, 2400' within 10 miles of CLE VORTAC.
Final approach crs, 051°.
Minimum altitude over 4-mile DME Fix, R 235°, 1320'.
MSA: 000°-180°—3000'; 180°-270°—2500'; 270°-360°—2100'.
NOTES: (1) Radar vectoring. (2) Use Cleveland Hopkins Airport, Ohio, altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-7	1320	1	526	1320	1	526	1320	1	526	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1320	1	526	1320	1	526	1320	1½	526	NA
	DME Minimums:									
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	
S-7	1220	1	426	1220	1	426	1220	1	426	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Lorain (Elyria); State, Ohio; Airport name, Lorain County Regional; Elev., 794'; Facility, CLE; Procedure No. VOR Runway 7, Amdt. Orig.; Eff. date, 20 Nov. 1969

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.8 miles after passing OME VORTAC.
OE LFR	OME VORTAC	Direct	3000	Climbing left turn to 2100' direct to OME VORTAC.
R 046°, OME VORTAC CW	R 090°, OME VORTAC (NOPT)	10-mile Arc OME, R 079° lead radial.	2200	
				Supplementary charting information:
17-mile DME OME, R 063°	10-mile DME OME, R 090° (NOPT)	214°, 9.3 miles	1700	1152' mountain 3.7 miles NE of airport.
11-mile DME OME, R 088°	10-mile DME OME, R 090° (NOPT)	251°, 1.1 miles	1700	1062' mountain 2.7 miles N of airport.
R 138°, OME VORTAC CCW	R 090°, OME VORTAC (NOPT)	10-mile Arc OME, R 101° lead radial.	1700	Runway 27, TDZ elevation, 13'.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 1700' within 10 miles of OME VORTAC.
FAF, OME VORTAC. Final approach crs, 270°. Distance FAF to MAP, 4.8 miles.
Minimum altitude over OME VORTAC, 1200'; over 2-mile DME or abeam OE LFR, 540'.
MSA: 000°-090°—4200'; 090°-180°—2200'; 180°-270°—2000'; 270°-360°—4400'.
%IFR departures must comply with published Nome SID's.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27	540	½	527	540	½	527	540	½	527	540	1	527
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	540	1	503	540	1	503	540	1½	503	700	2	663
	VOR/DME or VOR/LFR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27	420	½	407	420	½	407	420	½	407	420	1	407
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	400	1	423	500	1	463	500	1½	463	700	2	663
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Nome; State, Alaska; Airport name, Nome Airport; Elev., 37'; Facility, OME VORTAC; Procedure No. VOR Runway 27, Amdt. 6; Eff. date, 20 Nov. 69; Sup. Amdt. No. VOR 1, Amdt. 5; Dated, 26 Nov. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.8 miles after passing Southbridge LFM.
Foster Int	PUT VORTAC (NOPT)	Direct	2500	Make left-climbing turn to 2300' direct to PUT VORTAC and hold. Supplementary charting information: Hold SE, 1 minute, right turns, 321° Inbnd. Facility to airport, 12.3 miles. 820' antenna 2.8 miles SE of airport on final approach crs.

Procedure turn E side of crs, 149° Outbnd, 329° Inbnd, 2300' within 10 miles of PUT VORTAC.
FAF, Southbridge LFM. Final approach crs, 329°. Distance FAF to MAP, 2.8 miles.
Minimum altitude over PUT VORTAC, 2300'; over Southbridge LFM, 2300'.
MSA: 000°–090°—3100'; 090°–180°—2200'; 180°–270°—2100'; 270°–360°—2700'.
NOTE: Use Worcester altimeter setting.
*Marker beacon equipment required to execute this approach.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
	VOR/LFM Minimums:							
C*	1200	1	503	1200	1	503	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng. —Standard.	

City, Southbridge; State, Mass.; Airport name, Southbridge Municipal; Elev., 607'; Facility, PUT; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 20 Nov. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: LMT VORTAC.
LMT VORTAC	LMT R 144°, 6 miles	LMT R 144°	7500	Climb straight ahead to 4600' then climbing left turn to intercept and climb on R 263° LMT VORTAC to 7500' within 10 miles. All maneuvering N of R 263°. Supplementary charting information: Runway 32, TDZ elevation, 4092'.
LMT R 162°, 17 miles CCW	LMT R 144°, 17 miles	17-mile Arc LMT, R 151° lead radial	8000	
LMT R 144°, 17 miles	LMT R 144°, 6 miles (NOPT)	LMT R 144°	6000	

Procedure turn W side of crs, 144° Outbnd, 324° Inbnd, 7500' within 10 miles of LMT R 144°, 6-mile DME Fix.
Final approach crs, 324°.
Minimum altitude over R 144°/6 miles, 6000'; over LMT VORTAC, R 144°/4 miles, 5300'.
MSA: 000°–090°—8300'; 090°–180°—7600'; 180°–360°—5300'.
NOTES: (1) ASR/PAR. (2) Inoperative table does not apply to HIRL or ALS Runway 32.
#Air carrier reduction not authorized.
*Circling not authorized E of Runways 14/32.
%IFR departure procedures: Climb via LMT LOC SE crs/LMT VOR R 140° to 6000', then turn right heading 250° to intercept and proceed via LMT VOR R 162° to cross LMT VOR at or above 7000'; westbound V-122, 6000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D			E		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-32	4440	1	348	4440	1	348	4440	1	348	4440	1	348	4440	1	348
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	4820	1	728	4920	1¼	828	4920	1½	828	5020	2	928	*5500	3¼	1408
A	Categories A, B, C, D, 1000-2; Category E, 1500-3¼.			T 2-eng. or less—% Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.			T over 2-eng.—% Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.								

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Facility, LMT; Procedure No. VOR/DME Runway 32, Amdt. 2; Eff. date, 20 Nov. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VORTAC

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.8-mile DME, R 271°.
OE LFR	OME VORTAC	Direct	3000	Climb to 2100′ direct to OME VORTAC.
R 007°, OME VORTAC CCW	R 271°, OME VORTAC (NOPT)	21-mile Arc OME, R 277° lead radial.	4000	Supplementary charting information: 1152′ mountain 3.7 miles NE of airport. 1062′ mountain 2.7 miles N of airport. Runway 9, TDZ elevation, 15′.

Procedure turn S side of crs, 271° Outbnd, 091° Inbnd, 2500′ within 10 miles of 11-mile DME.
FAF, 11-mile DME R 271°. Final approach crs, 091°. Distance FAF to MAP, 5.2 miles.
Minimum altitude over 11-mile DME R 271° (FAF), 2000′.
MSA: 000°-090°—4200′; 090-180°—2200′; 180°-270°—2600′; 270°-360°—4400′.
% IFR departures must comply with published Nome SID's.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9	400	¾	385	400	¾	385	400	¾	385	400	1	385
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	460	1	423	500	1	463	500	1¼	463	700	2	663
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Nome; State, Alaska; Airport name, Nome Airport; Elev., 37′; Facility, OME VORTAC; Procedure No. VORTAC Runway 9, Amdt. 2; Eff. date, 20 Nov. 69; Sup. Amdt. No. VOR/DME Runway 9, Amdt. 1 Dated, 30 Dec. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: PVD VORTAC.
Woonsocket Int	9-mile DME Fix, R-345° PVD VORTAC.	Direct	2000	Climb to 2300′ to Foster Int via the PVD VOR, R 321° and hold.
9-mile DME Fix, R 345° PVD VORTAC	4-mile DME Fix, R 345° PVD VOR TAC (NOPT).	Direct	1300	Supplementary charting information: Hold SW of Foster Int on R 057° of ORW VOR, 1 minute, left turns, 057° Inbnd. Final approach crs intercepts runway centerline extended 4800′ from displaced runway threshold. Runway 16 has 531′ displaced threshold. Runway 16, TDZ elevation, 54′.

Procedure turn W side of crs, 345° Outbnd, 165° Inbnd, 2000′ within 10 miles of PVD VORTAC.
Final approach crs, 165°.
Minimum altitude over 4-mile DME, 1300′.
MSA: 000°-090°—2200′; 090°-180°—2100′; 180°-270°—1800′; 270°-360°—2100′.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-16	560	1	506	560	1	506	560	1	506	560	1¼	506
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	620	1	564	620	1	564	620	1¼	564	620	2	564
A	Standard.		T 2-eng. or less—Runway 5R, RVR 24′; Standard all other runways.				T over 2-Eng.—Runway 5R, RVR 24′; Standard all other runways.					

City, Providence; State, R.I.; Airport name, Theodore Francis Green State; Elev., 56′; Facility, PVD; Procedure No. VOR/DME Runway 16, Amdt. Orig.; Eff. date, 20 Nov. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 20.5-mile DME Fix.
SPA VORTAC	7-mile DME Fix (NOPT)	SPA, R 052°	3800	Climbing right turn to 3800' proceed to SPA VORTAC via R 052° and hold.
SPA VORTAC, R 325° CW	SPA VORTAC, R 052°	7-mile DME Arc	3800	
SPA VORTAC, R 150° CCW	SPA VORTAC, R 052°	7-mile DME Arc	3800	Supplementary charting information:
7-mile DME Fix	15-mile DME Fix (NOPT)	SPA, R 052°	2200	Hold NE, 1 minute, right turns, 232° Inbnd. Final approach crs to runway threshold.

Procedure turn not authorized. Approach crs (profile) starts at 7-mile DME Fix, R 052°.
Final approach crs, 052°.
Minimum altitude over 7-mile DME Fix, 3800'; over 15-mile DME Fix, 2200'.
MSA: 000°-090°—3100'; 090°-180—2400'; 180°-270'—3300'; 270°-360°—5000'.
NOTES: (1) Radar vectoring. (2) Use Spartanburg, S.C., altimeter setting. (3) No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-4	1260	1	413	1260	1	413	1260	1	413	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1320	1	473	1320	1	473	1320	1½	473	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Shelby; State, N.C.; Airport name, Shelby Municipal; Elev., 847'; Facility, SPA; Procedure No. VOR/DME Runway 4, Amdt. Orig; Eff. date, 20 Nov. 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 miles after passing Norma VHF/DME Fix.
R 257°, MOB VORTAC CCW	R 195°, MOB VORTAC	Via 7-mile Arc	2000	Climbing right turn to 2000' direct to MOB VORTAC; or, when directed by ATC, climbing right turn to 2000' to Horn Int, via BFM VOR R 236° and enter holding pattern.
R 105°, MOB VORTAC CW	R 195°, MOB VORTAC	Via 7-mile Arc	2000	
7-mile Arc	Norma Int (NOPT)	MOB, R 195°	1600	
MOB VORTAC	Norma Int (NOPT)	MOB, R 195°	1600	Supplementary charting information: Holding Horn Int: Hold SW, R 236° BFM VORTAC, 056° Inbnd, right turns, 1 minute, 7 miles. Chart 21.3-mile DME Fix MOB, R 195° in profile view as missed approach point. TDZ elevation, 16'.

Procedure turn not authorized. Approach crs (profile) starts at MOB VORTAC.
FAF, Norma Int. Final approach crs, 195°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over MOB VORTAC, 2000'; over Norma VHF/DME Fix, 1600'.
MSA: 000°-180°—2400'; 180°-270°—1400'; 270°-360°—1600'.
NOTES: (1) Radar vectoring. (2) Use Mobile altimeter setting.
*Night minimums Runways 18/36 and 5/23 not authorized.
#Dual VOR or VOR/DME receivers required.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-18#*	540	1	524	540	1¼	524	540	1½	524	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C#*	6 72	1	704	720	1¼	704	720	1½	704	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Pascagoula; State, Miss.; Airport name, Jackson County; Elev., 16'; Facility, MOB; Procedure No. VOR Runway 18, Amdt. 2; Eff. date, 20 Nov. 69; Sup. Amdt. No. 1; Dated, 26 Sept. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ANB VOR.
Steele Int	ANB VOR	ANB, R 328°	3000	Climb to 3000' on R 085° within 15 miles.
Gossett Int	ANB VOR	ANB, R 186°	3000	Supplementary charting information: LRCO 122.1.

Procedure turn S side of crs, 250° Outbnd, 070° Inbnd, 3000' within 10 miles of ANB VOR.
Final approach crs, 070°.
MSA: 000°-090°—3200'; 090°-180°—4000'; 180°-270°—3000'; 270°-360°—2600'.
NOTE: Use ANB altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS	
C	1180	1	654	1180	1	654	1180	1½	654	NA	
A	Not authorized.			T 2-eng. or less—Standard.			T over 2-eng.—not authorized.				

City, Talladega; State, Ala.; Airport name, Talladega Municipal; Elev., 526'; Facility, ANB; Procedure No. VOR-1, Amdt. 1; Eff. date, 20 Nov. 69; Sup. Amdt. No. Orig., Dated, 17 July 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.4-miles DME Fix, R 103°.
LBB VORTAC	11-mile DME Fix	R 103°	4700	Climb to 4700' direct LBB VORTAC and
R 216°, LBB VORTAC CCW	R 103°, LBB VORTAC	16-mile Arc LBB, R 110° lead radial.	5000	R 305° within 15 miles.
				Supplementary charting information:
R 004°, LBB VORTAC CW	R 103°, LBB VORTAC	16-mile Arc LBB, R 096° lead radial.	5000	Delete from AL plate 3417' tower 1.3 miles NE of airport—tower nonexistent.
16-mile DME Arc	11-mile DME Fix (NOPT)	R 103°	4700	Approach radial crosses Runway 26 centerline extended at 3000'. Runway 26R, TDZ elevation, 3253'.

Procedure turn N side of crs, 103° Outbnd, 283° Inbnd, 4700' within 10 miles of 11-mile DME Fix.
Final approach crs, 283°.
Minimum altitude over 11-mile DME R 103°, 4700'.
MSA: 000°-090°—4600'; 090°-270°—5200'; 270°-360°—5000'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-26	3660	1	407	3660	1	407	3660	1	407	3660	1	407
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3700	1	431	3720	1	451	3720	1½	451	3820	2	551
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Lubbock; State, Tex.; Airport name, West Texas Air Terminal of Lubbock; Elev., 3269'; Facility, LBB; Procedure No. VOR/DME Runway 26R, Amdt. 2; Eff. date, 20 Nov. 69; Sup. Amdt. No. VOR/DME Runway 26, Amdt. 1; Dated 25 Sept. 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.5 miles after passing Stack Int.
LIT VORTAC	Stack Int	Direct	1800	Climb to 2000' on LOC crs 221° within 20 miles.
LI LOM	Stack Int	Direct	1800	Supplementary charting information: Runway 22, TDZ elevation, 255'.

Procedure turn E side of crs, 041° Outbnd, 221° Inbnd, 1800' within 10 miles of Stack Int.
FAF, Stack Int. Final approach crs, 221°. Distance FAF to MAP, 2.5 miles.
Minimum altitude over Stack Int, 1000'.
MSA: Not authorized.
NOTE: ASR.
#RVR 24', Runway 4, 200-1 required for takeoff Runways 17, 22, 32, and 35.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-22	720	¾	465	720	¾	465	720	¾	465	720	1	465
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	760	1	503	800	1	543	980	1¼	723	980	2	723
A	Standard.		T 2-eng. or less—Standard.#				T over 2-eng.—Standard.#					

City, Little Rock; State, Ark.; Airport name, Adams Field; Elev., 257'; Facility, I-LIT; Procedure No. LOC (BC) Runway 22, Amdt. 3; Eff. date, 20 Nov. 69; Sup. Amdt. No. ILS-22 (BC), Amdt. 2, Dated, 14 Mar. 64

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.4 miles after passing Dunmore Int.
Lake Henry VORTAC	Dickson Int	Direct	3300	Climb to 4000' direct to CYE NDB and hold.
Dickson Int	Dunmore Int (NOPT)	Direct	2500	Supplementary charting information: Hold SW, 1 minute, right turns, 044° Inbnd. Runway 22, TDZ elevation, 929'.

One minute holding pattern, NE of Dickson Int, 224° Inbnd, left turns, 3300'.
FAF, Dunmore Int. Final approach crs, 224°. Distance FAF to MAP, 4.4 miles.
Minimum altitude over Dickson Int, 3300'; over Dunmore Int, 2500'.
NOTES: (1) ASR. (2) High terrain to 1820' E, SE, and S of airport within 2.3 miles. (3) Reduction not authorized.
#Runways 10/16, 800-2 night.
*Inoperative components table does not apply to HIRL Runway 22.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-22*	1360	1	431	1360	1	431	1360	1	431	1360	1	431
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1720	1	764	1820	1¼	864	1840	1½	884	1940	2	984
A	1200-2.		T 2-eng. or less—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.				T over 2-eng.—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.					

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956'; Facility, I-AVP; Procedure No. LOC (BC) Runway 22, Amdt. Orig.; Eff. date, 20 Nov. 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ALN NDB.
TOY VORTAC	ALN NDB	Direct	2200	Climbing left turn to 2200' on 100° bearing from ALN NDB within 10 miles, left turn to ALN NDB.
Godfrey Int	ALN NDB	Direct	2200	
Hartford Int	ALN NDB	Direct	2200	
Prairie Int	ALN NDB	Direct	2200	Supplementary charting information: Final approach crs intercepts runway centerline 2632' from threshold. Runway 17, TDZ elevation, 536'.

Procedure turn E side of crs, 005° Outbnd, 185° Inbnd, 2200' within 10 miles of ALN NDB.
FAF, Dorsey Int. Final approach crs, 185°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over Dorsey Int., 1200'.
MSA: 045°–135°—2000'; 135°–225°—2700'; 225°–315°—2100'; 315°–045°—2100'.
NOTE: Radar vectoring.
*Alternate minimums not authorized when control zone not effective except for operators with approved weather reporting service.
$Use St. Louis, Mo., altimeter setting when control zone not effective and all MDA's increase 60' except operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17$	1200	1	664	1200	1	664	1200	1¼	664	1200	1½	664
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C$	1200	1	656	1200	1	656	1200	1¼	656	1200	2	656
	NDB/VOR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17$	980	1	444	980	1	444	980	1	444	980	1	444
A	Standard.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Alton; State, Ill.; Airport name, Civic Memorial; Elev., 544'; Facility, ALN; Procedure No. NDB (ADF) Runway 17, Amdt. 3; Eff. date, 20 Nov. 69; Sup. Amdt. No. ADF 1, Amdt. 2; Dated, 9 Apr. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ALN NDB.
TOY VORTAC	ALN NDB	Direct	2200	Climbing right turn to 2200' on 100° bearing from ALN NDB within 10 miles, left turn to ALN NDB.
Godfrey Int	ALN NDB	Direct	2200	
Hartford Int	ALN NDB	Direct	2200	
Prairie Int	ALN NDB	Direct	2200	Supplementary charting information: Final approach crs intercepts runway centerline 2049' from threshold. Runway 29, TDZ elevation, 533'.

Procedure turn N side of crs, 100° Outbnd, 280° Inbnd, 2200' within 10 miles of ALN NDB.
FAF, Carpenter Int. Final approach crs, 280°. Distance FAF to MAP, 4.1 miles.
Minimum altitude over Carpenter Int., 1020'.
MSA: 045°–135°—2000'; 135°–225°—2700'; 225°–315°—2100'; 315°–045°—2100'.
NOTE: Radar vectoring.
*Alternate minimums not authorized when control zone not effective except for operators with approved weather reporting service.
$Use St. Louis, Mo., altimeter setting when control zone not effective and all MDA's increase 60' except operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-29$	1020	1	487	1020	1	487	1020	1	487	1020	1	487
C$	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
	1020	1	476	1020	1	476	1020	1¼	476	1100	2	556
	NDB/VOR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-29$	980	1	447	980	1	447	980	1	487	980	1	447
A	Standard.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Alton; State, Ill.; Airport name, Civic Memorial; Elev., 544'; Facility, ALN; Procedure No. NDB (ADF) Runway 29, Amdt. 3; Eff. date, 20 Nov. 69; Sup. Amdt. No. ADF 2, Amdt. 2; Dated, 9 Apr. 66

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.7 miles Runway 6L or 6.5 miles Runway 6R after passing Gem City LOM.
DAY VORTAC	Gem City LOM	Direct	2700	Climb to 3000' left turn direct DAY VORTAC and hold.
Rudy NDB	Gem City LOM	Direct	2700	
Camden Int	Gem City LOM (NOPT)	Direct	2600	Supplementary charting information: Hold W, 1 minute, right turns, 084° Inbnd. Runway 6L, TDZ elevation, 997'. Runway 6R, TDZ elevation, 1008'.

Procedure turn N side of crs, 236° Outbnd, 056° Inbnd, 2700' within 10 miles of Gem City LOM.
FAF, Gem City LOM. Final approach crs Runway 6L, 056°; Runway 6R, 065°. Distance FAF to MAP Runway 6L, 5.7 miles; Runway 6R, 6.5 miles.
Minimum altitude over Gem City LOM, 2600'.
MSA: 000°-090°—2400'; 090°-270°—3100'; 270°-360°—2400'.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-6L	1460	RVR 40	463	1460	RVR 40	463	1460	RVR 40	463	1460	RVR 50	463
S-6R	1500	1	492	1500	1	492	1500	1	492	5100	1	492
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	492	1500	1	492	1500	1¼	492	1560	2	552
A	Standard.		T 2-eng. or less—Runway 6L, RVR 24'; Standard all other Runways.				T over 2-eng.—Runway 6L, RVR 24'; Standard all other runways.					

City, Dayton; State, Ohio; Airport name, James M. Cox-Dayton Municipal; Elev., 1008'; Facility, AT; Procedure No. NDB (ADF) Runway 6 L/R, Amdt. Orig.; Eff. date, 20 Nov. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.9 miles Runway 24L or 4.3 miles Runway 24R after passing Rudy NDB.
DAY VORTAC	Rudy NDB	Direct	2700	Climb to 3000', right turn direct DAY VORTAC and hold.
Gem City LOM	Rudy NDB	Direct	2700	
ROD VORTAC	Alcony Int	Via ROD, R 180° and 056° bearing TPC NDB.	2700	Supplementary charting information: Hold W, 1 minute, right turns, 084° Inbnd. Runway 24R, TDZ elevation, 995'. Runway 24L, TDZ elevation, 1005'.
Alcony Int	Rudy NDB (NOPT)	Direct	2200	

Procedure turn N side of crs, 056° Outbnd, 236° Inbnd, 2700' within 10 miles of Rudy NDB.
FAF, Rudy NDB. Final approach crs Runway 24L, 236°; Runway 24R, 246°. Distance FAF to MAP Runway 24L, 3.9 miles; Runway 24R, 4.3 miles.
Minimum altitude over Rudy NDB, 2200'.
MSA: 050°-140°—2800'; 140°-230°—3100'; 230°-320°—2300'; 320°-050°—2400'.

NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-24L	1440	1	435	1440	1	435	1440	1	435	1440	1	435
S-24R	1440	1	445	1440	1	445	1440	1	445	1440	1	445
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1460	1	452	1460	1	452	1460	1¼	452	1560	2	552
A	Standard.		T 2-eng. or less—Runway 6L, RVR 24; Standard all other runways.				T over 2-eng.—Runway 6L RVR 24'; Standard all other runways.					

City, Dayton; State, Ohio; Airport name, James M. Cox Dayton Municipal; Elev., 1008'; Facility, RXY; Procedure No. NDB (ADF) Runway 24L/R, Amdt. 8; Eff. date, 20 Nov. 69; Sup. Amdt. No. NDB (ADF) Runway 24; Dated, 4 Mar. 67

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: MT LMM.
LMT VOR	LFA NDB	Direct	8500	Climbing left turn direct LFA NDB, continue climb to 7500' 139° bearing within 10 miles.
Mount Dome Int	LFA NDB (NOPT)	Direct	8200	

Procedure turn W side of crs, 139° Outbnd, 319° Inbnd, 7500' within 10 miles of LFA NDB.
Final approach crs, 319°.
Minimum altitude over LFA NDB, *7000' (*8200' from Mount Dome Int); over OM, 6800'.
MSA: 000°-090°—8300'; 090°-180°—9100'; 180°-270°—8900'; 270°-360°—9300'.
NOTE: ASR/PAR.
#Air carrier reduction not authorized.
*Circling not authorized E of Runways 14/32.
%IFR departure procedures: Climb via LMT LOC SE crs/LMT VOR, R 140° to 6000', then turn right heading 250° to intercept and proceed via LMT VOR R 162° to cross LMT VOR at or above 7000'; westbound V-122, 6000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D			E		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	5360	1	1268	5360	1¼	1268	5360	2	1268	5360	2¼	1268	*5500	3¼	1408
A	Categories A, B, C, 1300-2; Category D, 1300-2¼; Category E, 1500-3¼.		T 2-Eng. or less—% Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.				T over 2-eng.—% Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.								

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Facility, MT; Procedure No. NDB (ADF) Runway 32, Amdt. 6; Eff. date, 20 Nov. 69; Sup. Amdt. No. 5; Dated, 9 Nov. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing LI LOM.
LIT VORTAC	LI LOM	Direct	1800	Climb to 2000' on Bearing 041° from LI LOM within 15 miles. Supplementary charting information: Runway 4, TDZ elevation, 255'.
Bauxite Int	Mabelvale Int	Heading 011° and bearing 041° to LI LOM.	1600	
Mabelvale Int	LI LOM (NOPT)	Direct	1500	

Procedure turn N side of crs, 221° Outbnd, 041° Inbnd, 1800' within 10 miles of LI LOM.
FAF, LI LOM. Final approach crs, 041°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over LI LOM, 1500'.
MSA: 000°-090°—2000'; 090°-180°—3300'; 180°-270°—2000'; 270°-360°—3300'.
NOTE: ASR.
#RVR 24', Runway 4, 200-1 required for takeoff Runways 17, 22, 32, and 35.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4	820	RVR 40	565	820	RVR 40	565	820	RVR 40	565	820	RVR 50	565
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	820	1	563	820	1	563	980	1¼	723	980	2	723
A	Standard.		T 2-Eng. or Less—Standard.#				T over 2-Eng.—Standard.#					

City, Little Rock; State, Ark.; Airport name, Adams Field; Elev., 257'; Facility, LI; Procedure No. NDB (ADF) Runway 4, Amdt. 9; Eff. date, 20 Nov. 69; Sup. Amdt. No. ADF1, Amdt. 8; Dated, 24 Dec. 66

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.7 miles after passing MIV NDB.
Bridgeton Int	MIV NDB	Direct	1700	Climb to 1700' right turn direct to MIV NDB and hold. Supplementary charting information: Hold NW, 1 minute, right turns, 144° Inbnd. 212' Lookout tower 8400' N of AER-19. Runway 14, TDZ, elevation 82'.

Procedure turn W side of crs, 324° Outbnd, 144° Inbnd, 1700' within 10 miles of MIV NDB.
FAF, MIV NDB. Final approach crs, 144°. Distance FAF to MAP, 3.7 miles.
Minimum altitude over MIV NDB, 1100'.
MSA: 000°-090°—2100'; 090°-360°—1600'.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-14	520	1	438	520	1	438	520	1	438	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	520	1	433	540	1	453	540	1½	453	NA
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Millville; State, N.J.; Airport name, Millville Municipal; Elev., 87'; Facility, MIV; Procedure No. NDB (ADF) Runway 14, Amdt. 1; Eff. date, 20 Nov. 69; Sup. Amdt. No. ADF 1, Orig.; Dated, 10 Nov. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: GRH NDB.
SUX VORTAC	GRH NDB	Direct	2600	Climb to 2600' direct to JKN NDB and hold. Supplementary charting information: *Hold NW, 1 minute, right turns, 127° Inbnd. Final approach crs to GRH NDB. 1365' stack 1.4 miles SSW of airport at 42°30'45"/96°29'15"; 2470' tower 8 miles ESE of airport at 42°30'50"/96°18'00"; 3369' tower 11 miles NE at 46°35'20"/96°17'40". Runway 15, TDZ elevation, 1106'.

Procedure turn N side of crs, 310° Outbnd, 130° Inbnd, 2600' within 10 miles of GRH NDB.
Final approach crs, 130°.
MSA: 000°-090°—4400'; 090°-180°—3500'; 180°-360°—2700'.
NOTES: (1) Use Sioux City altimeter setting. (2) Inoperative table does not apply to REIL Runway 15.
CAUTION: Runway lights outline TURF portion of runway.
*IFR departure procedure: For northeast bound and eastbound departures, when weather is below 2400-2, flight below 2900' beyond 5 miles from airport and flight below 3900' beyond 10 miles from airport is prohibited between 030° bearing and 120° bearing inclusive from GRH NDB. Restrictions due to 2420' tower 8 miles ESE and 3369' tower 11 miles NE. When weather is below 300-1, aircraft departing Runway 15 climb to 1800' MSL on runway heading before turning W. Restriction due to 1365' stack 1.4 miles SSW of airport.

DAY AND NIGHT MINIMUMS

Cond.	A			B	C	D
	MDA	VIS	HAT	VIS	VIS	VIS
S-15	1720	1	614	NA	NA	NA
	MDA	VIS	HAA			
C	1720	1	614	NA	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.*		T over 2-eng.—Not authorized.	

City, North Sioux City; State, S. Dak.; Airport name, Graham Field; Elev., 1106'; Facility, GRH; Procedure No. NDB (ADF) Runway 15, Amdt. Orig.; Eff. date, 20 Nov. 69

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.9 miles after passing AV LOM.
Wilkes-Barre VOR	AV LOM	Direct	3900	Climb to 4000' to Lake Henry VOR on crs 043° from AV LOM and LHY R 250° and hold; or, when directed by ATC, climb to 3900' on crs 043° from LOM, left turn direct to AV LOM and hold SW, 1 minute, left turns, 043° Inbnd.
Hazleton VOR	AV LOM	Direct	3900	
CYE NDB	AV LOM (NOPT)	Direct	3400	

Supplementary charting information:
LHY VORTAC hold E, 1 minute, right turns, 268° Inbnd.
Runway 4, TDZ elevation, 956'.

Procedure turn W side of crs, 223° Outbnd, 043° Inbnd, 3900' within 10 miles of AV LOM.
FAF, AV LOM. Final approach crs, 043°. Distance FAF to MAP, 3.9 miles.
Minimum altitude over AV LOM, 3400'.
MSA: 090°-270°—4000'; 270°-090°—3800'.
NOTES: (1) ASR. (2) High terrain to 1820' E, SE, and S of airport within 2.3 miles. (3) Reduction not authorized.
#Runway 10/16, 800-2 night.
*Inoperative components table does not apply to ALS Runway 4.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	1960	1¼	1004	1960	1¼	1004	1960	2	1004	1960	2¼	1004
A	1200-2.		T 2-eng. or less—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.				T over 2-eng.—Runway 4, 600-1; Runways 10/16, 600-2; Standard all others.					

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956'; Facility, AV; Procedure No. NDB (ADF) Runway 4, Amdt. 10; Eff. date 20 Nov. 69; Sup. Amdt. No. 9; Dated, 7 Dec. 67

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4 miles after passing BE LOM.
Boston VOR	BE LOM	Direct	2000	Make left-climbing turn to 2000' direct to LWM NDB and hold, or when directed by ATC, make left-climbing turn to 1600' direct to BE LOM and hold. Hold W, 112° Inbnd, 1 minute, left turns.
Manchester VOR	BE LOM	Direct	2000	
Framingham Int	BE LOM	Direct	2200	
Hollis Int	BE LOM (NOPT)	Direct	1600	
Millbury Int	BE LOM	Direct	3000	
Lawrence VOR	BE LOM	Direct	2000	
Lawrence NDB	BE LOM	Direct	2000	

Supplementary charting information:
LWM NDB—Hold SW, 051° Inbnd, 1 minute, right turns.
570' antenna 2.9 miles NE of airport.
649' antenna 4.3 miles ESE of airport.
TDZ elevation, 133'.

Procedure turn N side of crs, 292° Outbnd, 112° Inbnd, 1600' within 10 miles of BE LOM.
FAF, BE LOM. Final approach crs, 112°. Distance FAF to MAP, 4 miles.
Minimum altitude over BE LOM, 1600'.
MSA: 000°-090°—1900'; 090°-180°—2400'; 180°-270°—3100'; 270°-360°—3100'.
NOTE: Radar vectoring.
* Inoperative table does not apply to ALS Runway 11.
%IFR departures: Runway 11. Climb straight ahead to 500', then left-climbing turn to 1500' before proceeding on crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-11*	620	1	487	620	1	487	620	1	487	620	1	487
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	680	1	547	680	1	547	680	1¼	547	700	2	567
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Bedford; State, Mass.; Airport name, Laurence G. Hanscom Field; Elev., 133'; Facility, BE; Procedure No. NDB (ADF) Runway 11, Amdt. 6; Eff. date, 20 Nov. 69; Sup. Amdt. No. 5; Dated, 18 July 68

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CIN NDB.
FOD VOR	CIN NDB	Direct	3000	Climb to 3000' on 316° bearing from NDB within 10 miles, return to NDB.
Manning Int	CIN NDB	Direct	3000	
Menlo Int	CIN NDB	Direct	3000	

Supplementary charting information:
Final approach crs intercepts runway centerline 3700' from threshold.
Runway 31, TDZ elevation, 1196'.

Procedure turn E side of crs, 136° Outbnd, 316° Inbnd, 3000' within 10 miles of CIN NDB.
Final approach crs, 316°.
MSA: 000°-360°—2800'.
CAUTION: Runways 3/21 unlighted.
NOTES: (1) Use Fort Dodge, Iowa, altimeter setting; when not available use Des Moines, Iowa, altimeter setting and increase all MDA's 100'. (2) Operators with approved weather reporting service may reduce all MDA's by 180'.
*Standard alternate minimums for operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-31	1840	1	644	1840	1	644	1840	1¼	644	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1840	1	638	1840	1½	638	1840	1	638	NA
A	Not authorized.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Carroll; State, Iowa; Airport name, Arthur N. Neu; Elev., 1202'; Facility, CIN; Procedure No. NDB (ADF) Runway 31, Amdt. 2; Eff. date, 20 Nov. 69; Sup. Amdt. No. 1; Dated, 16 Oct. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Hines/MD LOM.
API VOR	MD LOM	Direct	2500	Right turn to 2300' and proceed to EON VORTAC via EON R 001.
Big Run Int	MD LOM	Direct	2500	
MX LOM	MD LOM	Direct	2500	

Supplementary charting information:
MD LOM named Hines.
2049' tower 8.6 miles NE of airport; 776' tank 1.6 miles SE of airport; 819' stacks 0.6 mile SSW of airport; 968' stacks 2.3 miles NNE of airport; 807' stacks 1.5 miles NW of airport; 756' tank 1 mile NW of airport.
Runway 13R, TDZ elevation, 610'.

Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500' within 10 miles of Hines/MD LOM.
FAF, Hines/MD LOM. Final approach crs, 132°. Distance FAF to MAP, 5 miles.
Minimum altitude over Hines/MD LOM, 2300'.
MSA: 000°-180°—3100'; 180°-270°—2400'; 270°-360°—2600'.
NOTES: (1) ASR. (2) Inoperative component table does not apply to ALS Runway 13R. (3) Air carrier reduction for ALS not authorized. (4) Sliding scale not authorized.
CAUTION: Tall buildings and towers to 2049', 8 miles NE. Plan departure to avoid this area.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	1120	RVR 50	510	1120	RVR 50	510	1120	RVR 50	510	1120	RVR 50	510
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1120	1	501	1120	1	501	1120	1¼	501	1180	2	561
A	Standard.		T 2-eng. or less—200—RVR 24', Runway 13R; 200-1 all others.				T over 2-eng.—200—RVR 24', Runway 13R; 200-½ all others.					

City, Chicago; State, Ill.; Airport name, Chicago-Midway; Elev., 619'; Facility, MD; Procedure No. NDB (ADF) Runway 13R Amdt. 1; Eff. date, 20 Nov. 69; Sup. Amdt. No. Orig.; Dated, 25 Sept. 69

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.4 miles after passing OWD NDB.
Whitman VORTAC	OWD NDB	Direct	2000	Make left-climbing turn to 2000' direct to OWD NDB and hold. Supplementary charting information: Hold S, OWD NDB 348° Inbnd, 1 minute, left turns. 322' water tank 1.2 miles SE of airport.

Procedure turn W side of crs, 168° Outbnd, 348° Inbnd, 2000' within 10 miles of OWD NDB.
FAF, OWD NDB. Final approach crs, 348°. Distance FAF to MAP, 4.4 miles.
Minimum altitude over OWD NDB, 1000'.
MSA: 000°-090°—2400'; 090°-180°—1600'; 180°-270°—2200'; 270°-360°—3100'.
NOTES: (1) Radar vectoring. (2) Use Boston altimeter setting. (3) Approach from a holding pattern not authorized.
*Night operations Runways 17/35 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-35*	660	1	610	660	1	610	660	1	610	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C*	660	1	610	660	1	610	660	1¼	610	NA
A	Not authorized.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*			

City, Norwood; State, Mass.; Airport name, Norwood Memorial; Elev., 50'; Facility, OWD; Procedure No. NDB (ADF) Runway 35, Amdt. 1; Eff. date, 20 Nov. 69; Sup. Amdt. No. Orig.; Dated, 3 Apr. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: PLD NDB.
Redkey Int	PLD NDB	Direct	2600	Climb on crs to 2600'; return to PLD NDB.
Berne Int	PLD NDB	Direct	2600	
Bonnie Int	PLD NDB	Direct	2600	Supplementary charting information: Final approach crs intercepts runway centerline 1408' from runway threshold. Radio tower 1.3 miles SW of airport, 1115'. Tower 1340' 2.3 miles S of airport. Runway 27, TDZ elevation, 923'.

Procedure turn N side of crs, 100° Outbnd, 280° Inbnd, 2600' within 10 miles of PLD NDB.
Final approach crs, 280°.
MSA: 090°-270°—2500'; 270°-090°—2200'.
NOTE: Use Fort Wayne altimeter setting.
%IFR departures Runway 27 maintain runway heading, climb to 1700' MSL before turning left.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-27	1500	1	577	1500	1	577	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1560	1	637	1560	1	637	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%	

City, Portland; State, Ind.; Airport name, Steed; Elev., 923'; Facility, PLD; Procedure No. NDB (ADF) Runway 27, Amdt. 1; Eff. date, 20 Nov. 69; Sup. Amdt. No. Orig.; Dated, 29 May 69

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1197'; LOC 5.7 miles after passing Gem City LOM.
DAY VORTAC	Gem City LOM	Direct	2700	Climb to 3000' left turn direct DAY VORTAC and hold.
Rudy NDB	Gem City LOM	Direct	2700	
Camden Int	Gem City LOM (NOPT)	Direct	2600	Supplementary charting information: Hold W, 1 minute, right turns, 084° Inbnd. Runway 6L, TDZ elevation, 997'.

Procedure turn N side of crs, 236° Outbnd, 056° Inbnd, 2700' within 10 miles of Gem City LOM.
FAF, Gem City LOM. Final approach crs, 056°. Distance FAF to MAP, 5.7 miles.
Minimum glide slope interception altitude, 2600'. Glide slope altitude at OM, 2594'; at MM, 1197'.
Distance to runway threshold at OM, 5.7 miles; at MM, 0.6 mile.
MSA: 000°-090°—2400'; 090°-270°—3100'; 270°-360°—2400'.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-6L	1197	RVR 24	200	1197	RVR 24	200	1197	RVR 24	200	1197	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-6L	1360	RVR 40	363	1360	RVR 40	363	1360	RVR 40	363	1360	RVR 40	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1460	1	452	1460	1	452	1460	1¼	452	1560	2	552
A	Standard.		T 2-eng. or less—Runway 6L, RVR 24'; Standard all other runways.				T over 2-eng.—Runway 6L, RVR 24'; Standard all other runways.					

City, Dayton; State, Ohio; Airport name, James M. Cox, Dayton Municipal; Elev., 1008'; Facility, I-ATD; Procedure No. ILS Runway 6L, Amdt. Orig.; Eff. date, 20 Nov. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: DH 4292.
LMT VORTAC	LFA NDB	Direct	8500	Climb straight ahead to 4600' then climbing left turn direct to LFA NDB, continue climb on SE crs LMT LOC to 7500' within 10 miles of LFA NDB.
Mount Dome Int	LFA NDB	Direct	8100	
LMT R 162°, 17 miles CCW	LMT R 140°, 17 miles	17-mile Arc LMT, R 151° lead radial.	8000	
LMT R 140°, 17 miles	LFA NDB (NOPT)	SE crs LMT LOC	7100	Supplementary charting information: Runway 32, TDZ elevation, 4092'.

Procedure turn W side of crs, 139° Outbnd, 319° Inbnd, 7500' within 10 miles of LFA NDB.
Final approach crs, 319°.
Minimum glide slope interception altitude, 7100'. Glide slope altitude at LFA NDB, 7038'; at OM, 5721'; at MM, 4308'.
Distance to runway threshold at LFA NDB, 10.5 miles; at OM, 5.8 miles; at MM, 0.6 mile.
MSA: 000°-090°—8300'; 090°-180°—9100'; 180°-270°—8900'; 270°-360°—9300'.

NOTES: (1) ASR/PAR. (2) Procedure not authorized with glide slope inoperative.
#Air carrier reduction not authorized.
*Circling not authorized E of Runways 14/32.
%IFR departure procedures: Climb via LMT LOC SE crs/LMT VOR R 140° to 6000', turn right heading 250° to intercept and proceed via LMT VOR R 162° to cross LMT VOR at or above 7000'; westbound V-122, 6000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-32	4292	½	200	4292	½	200	4292	½	200	4292	½	200
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	4820	1	728	4920	1¼	828	4920	1¼	828	5020	2	928
	Condition E:											
	DH	VIS	HAT									
S-32	4292	½	200									
	MDA	VIS	HAA									
C*	5500	3¼	1408									
A	Categories A, B, C, D, 1000-2; Category E, 1500-3¼.		T 2-eng. or less—%Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.				T over 2-eng.—%Runway 14, Standard; #Runway 32, 300-1; Runways 7/25 and 18/36, 500-1.					

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Facility, I-LMT; Procedure No. ILS Runway 32, Amdt. 9; Eff. date, 20 Nov. 69; Sup. Amdt. No. 8; Dated, 16 Sept. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 455'; LOC 4.6 miles after passing LI LOM.
LIT VORTAC	LI LOM	Direct	1900	Climb to 2000' on ILS crs 041° within 20 miles.
Bauxite Int	Mabelvale Int	Heading 011° and LIT LOC	1900	
Mabelvale Int	LI LOM (NOPT)	Direct	1900	Supplementary charting information: Runway 4, TDZ elevation, 255'.

Procedure turn N side of crs, 221° Outbnd, 041° Inbnd, 1900' within 10 miles of LI LOM.
FAF, LI LOM. Final approach crs, 041°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over LI LOM, 1900'.
Minimum glide slope interception altitude, 1900'. Glide slope altitude at OM, 1826'; at MM, 505'.
Distance to runway threshold at OM, 4.6 miles; at MM, 0.6 mile.
MSA: 000°-090°—2000'; 090°-180°—3300'; 180°-270°—2000'; 270°-360°—3300'.
NOTE: ASR.
#RVR 24', Runway 4, 200-1 required for takeoff Runways 17, 22, 32, and 35.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-4	455	RVR 24	200	455	RVR 24	200	455	RVR 24	200	455	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4	780	RVR 40	525	780	RVR 40	525	780	RVR 40	525	780	RVR 50	525
	LOC/MM Minimums:											
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4	620	RVR 40	365	620	RVR 40	365	620	RVR 40	365	620	RVR 40	365
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	780	1	823	800	1	543	980	1¼	723	980	2	723
A	Standard.		T 2-eng. or less—Standard.#				T over 2-eng.—Standard.#					

City, Little Rick; State, Ark.; Airport name, Adams Field; Elev., 257'; Facility, I-LIT; Procedure No. ILS Runway 4, Amdt. 11; Eff. date, 20 Nov. 69; Sup. Amdt. No. ILS-4, Amdt. 10; Dated, 24 Dec. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1556'; LOC 3.9 miles after passing AV LOM.
Sweet Valley Int	CYE NDB	Direct	3900	Or, 8.6 miles after passing Crystal Lake NDB, climb to 4000' to LHY VORTAC via ILS BC and LHY R 250° and hold; or, when directed by ATC, climb to 3900' on ILS BC, left turn direct to CYE NDB and hold SW, 1 minute, left turns, 044° Inbnd.
Wilkes-Barre VOR	CYE NDB	Direct	3900	
Effort Int	CYE NDB	Direct	3900	
Pocono Int	CYE NDB	Direct	3900	
Scranton Int	CYE NDB	Direct	3900	
Lopez Int	CYE NDB	Direct	3900	
Hazleton VOR	CYE NDB (NOPT)	Direct	3900	Supplementary charting information: LHY VORTAC hold E, 1 minute, right turns, 268° Inbnd. Runway 4, TDZ elevation, 956'.

Procedure turn W side of crs, 224° Outbnd, 044° Inbnd, 3900' within 10 miles of CYE NDB.
FAF, CYE NDB. Final approach crs, 044°. Distance FAF to MAP, 8.6 miles.
Minimum altitude over LOM, 2220'.
Minimum glide slope interception altitude, 3900'. Glide slope altitude at OM, 2220'; at MM, 1177'.
Distance to runway threshold at OM, 3.9 miles; at MM, 0.6 mile.
MSA: 090°-270°—4000'; 270°-090°—3800'.
NOTES: (1) ASR. (2) This approach is authorized only when Crystal Lake NDB is operating or when radar is utilized. (3) High terrain to 1820' E, SE, and S of airport within 2.3 miles. (4) Reduction not authorized.
#Runways 10/16, 800-2 night.
*Inoperative components table does not apply to ALS or HIRL's Runway 4.
$Maintain 2300' until past LOM.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-4*	1556	1	600	1556	1	600	1556	1	600	1556	1¼	600
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4$*	1960	1¼	1004	1960	1¼	1004	1960	2	1004	1960	2¼	1004
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1960	1¼	1004	1960	1¼	1004	1960	2	1004	1960	2¼	1004
A	1200-2.		T 2-eng. or less—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.				T over 2-eng.—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.					

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956'; Facility, I-AVP; Procedure No. ILS Runway 4, Amdt. 22; Eff. date, 20 Nov. 69; Sup. Amdt. No. 21; Dated, 7 Dec. 67

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

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

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

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 383', LOC 4 miles after passing BE LOM.
Boston VOR	BE LOM	Direct	2000	Climb straight ahead to 500' then left-climbing turn to 2000' direct LWM VOR and hold, or when directed by ATC, climb straight ahead to 500' then left-climbing turn to 1600' direct to BE NDB and hold. Hold W 112° Inbnd, 1 minute, left turns.
Manchester VOR	BE LOM	Direct	2000	
Farmingham Int	BE LOM	Direct	2200	
Hollis Int	BE LOM (NOPT)	Direct	1600	
Millbury Int	BE LOM	Direct	3000	
Lawrence VOR	BE LOM	Direct	2000	
Lawrence NDB	BE LOM	Direct	2000	

Supplementary charting information:
LWM VOR—Hold SW, 1 minute, right turns, 057° Inbnd.
570' antenna 2.0 miles NE of airport.
640' antenna 4.3 miles ESE of airport.
TDZ elevation, 133'.

Procedure turn N side of crs, 292° Outbnd, 112° Inbnd, 1600' within 10 miles of BE LOM.
FAF, BE LOM. Final approach crs, 112°. Distance FAF to MAP, 4 miles.
Minimum glide slope interception altitude, 1600'. Glide slope altitude at OM, 1455'; at MM, 357'.
Distance to runway threshold at OM, 4 miles; at MM, 0.6 mile.
MSA: 000°–090°—1900'; 090°–180°—2400'; 180°–270°—3100'; 270°–360°—3100'.
NOTE: Radar vectoring.
*Inoperative table does not apply to ALS or HIRL Runway 11.
%IFR departures Runway 11: Climb straight ahead to 500', then left-climbing turn to 1500' before proceeding on crs.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-11*	383	1	250	383	1	250	383	1	250	383	1	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-11*	580	1	447	580	1	447	580	1	447	580	1	447
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	680	1	547	680	1	547	680	1¼	547	700	2	567
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Bedford; State, Mass.; Airport name, Laurence G. Hanscom Field; Elev., 133'; Facility, I-BED; Procedure No. ILS Runway 11, Amdt. 8; Eff. date, 20 Nov. 69; Sup. Amdt. No. 8; Dated, 18 July 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 868'; LOC 5 miles after passing Hines/MD LOM.
MX LOM	MD LOM	Direct	2500	Make right turn, climb to 2300' and proceed to EON VORTAC via R 001°.
API VOR	MD LOM	Direct	2500	Supplementary charting information: MD LOM named Hines. Add REIL to Runway 4R. 2049' tower 8.6 miles NE of airport; 776' tank 1.6 miles SE of airport; 819' stacks 0.6 mile SSW of airport; 968' stacks 2.3 miles NNE of airport; 807' stacks 1.5 miles NW of airport; 756' tank 1 mile NW of airport. Runway 13R, TDZ elevation, 610'.

Procedure turn W side of crs, 312° Outbnd, 132° Inbnd, 2500' within 10 miles of MD LOM.
FAF, Hines/MD LOM. Final approach crs, 132°. Distance FAF to MAP, 5 miles.
Minimum altitude over Hines/MD LOM, 2300'.
Minimum glide slope interception altitude, 2300'. Glide slope altitude at OM, 2255'; at MM, 868'.
Distance to runway threshold at OM, 5 miles; at MM, 0.6 mile.
MSA: 000°–180°—3100'; 180°–270°—2400'; 270°–360°—2600'.
CAUTION: Tall buildings and towers to 2049', 8 miles NE; plan departure to avoid this area.
NOTES: (1) ASR. (2) Inoperative component table does not apply to ALS and HIRL on Runway 13R. (3) Sliding scale not authorized. (4) Air carrier reduction for ALS not authorized. (5) Glide slope unusable below 868' MSL. (6) Back crs unusable.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-13R	868	RVR 40	258	868	RVR 40	258	868	RVR 40	258	868	RVR 40	258
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	1060	RVR 50	450	1060	RVR 50	450	1060	RVR 50	450	1060	RVR 50	450
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1120	1	501	1120	1	501	1120	1½	501	1180	2	561
A	Standard.		T 2-eng. or less—200—RVR 24', Runway 13R; 200-1 all others.				T over 2-eng.—200—RVR 24', Runway 13R; 200-1½ all others.					

City, Chicago; State, Ill.; Airport name, Chicago-Midway; Elev., 619'; Facility, I-MDW; Procedure No. ILS Runway 13R, Amdt. 27; Eff. date, 20 Nov. 69; Sup. Amdt. No. 26; Dated, 25 Sept. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 768', LOC 4.6 miles after passing GS LOM.
Britton VOR	GS LOM	Direct	2800	Climb to 2000' and proceed direct to Hensley Int.
Lucas Int	GS LOM	Direct	2280	Supplementary charting information: TDZ elevation, 568'.
Hensley	GS LOM	Direct	2200	
Fort Worth NDB	GS LOM	Direct	2200	
Roanoke Int	GS LOM (NOPT)	Direct	2000	

Procedure turn N side of crs, 309° Outbnd, 129° Inbnd, 2200' within 10 miles of GS LOM.
FAF, GS LOM. Final approach crs, 129°. Distance FAF to MAP, 4.6 miles.
Minimum glide slope interception altitude, 2000'. Glide slope altitude at OM, 1998'; at MM, 768'.
Distance to runway threshold at OM, 4.6 miles, at MM, 0.5 mile.
MSA: 090°–180°—3400'; 180°–270°—2800'; 270°–090°—2300'.
NOTE: ASR.
CAUTION: Lighted highway paralleling Runways 17-35 to the W may be mistaken for runway lights during periods of reduced visibility.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D			E		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-13	768	RVR 24	200	768	RVR 24	200	768	RVR 24	200	768	RVR 24	200	768	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	880	RVR 24	312	880	RVR 24	312	880	RVR 24	312	880	RVR 40	312	880	RVR 40	312
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1020	1	452	1020	1	452	1020	1½	452	1120	2	552	1540	2	972
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.								

City, Fort Worth; State, Tex.; Airport name, Greater Southwest International Dallas-Fort Worth Field; Elev., 568'; Facility, I-GSW; Procedure No. ILS Runway 13, Amdt. 13; Eff. date, 20 Nov. 69; Sup. Amdt. No. 12; Dated, 13 Mar. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 274'; LOC 5.1 miles after passing PW LOM.
Hiram Intg	Limerick Int	Direct	3500	Make right-climbing turn to 2200' direct PW LOM and hold; or, when directed by ATC, make right-climbing turn to 3000' direct ENE VORTAC and hold. Hold W, 1 minute, left turns, 091° Inbnd.
Kennebunk VORTAC	Limerick Int	Direct	2700	
Limerick Int	Buxton Int	Direct	2200	
Kennebunk VORTAC	Buxton Int	Direct	2200	
Buxton Int	PW LOM (NOPT)	Direct	1800	
Freeport Int	PW LOM	Direct	2200	Supplementary charting information: Hold W of PW LOM, 112° Inbnd, 1 minute, left turns. TDZ elevation, 74'.

Procedure turn N side of crs, 292° Outbnd, 112° Inbnd, 2200' within 10 miles of PW LOM.
FAF, PW LOM. Final approach crs, 112°. Distance FAF to MAP, 5.1 miles.
Minimum glide slope interception altitude, 1800'. Glide slope altitude at OM, 1760'; at MM, 299'.
Distance to runway threshold at OM, 5.1 miles; at MM, 0.6 mile.
MSA: 000°-090°—3100'; 090°-180°—1500'; 180°-270°—2700'; 270°-360°—3600'.
NOTE: Approach from a holding pattern not authorized; procedure turn required. Reduction of minimums not authorized.
#800-2 for Category D aircraft.
*Inoperative components table does not apply to ALS. Visibility 1 mile required with ALS inoperative.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-11	274	½	200	274	½	200	274	½	200	274	½	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-11*	460	¾	386	460	¾	386	460	¾	386	460	¾	386
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	580	1	506	580	1	506	580	1½	506	740	2	666
A	Standard.#		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Portland; State, Maine; Airport name, Portland International Jetport; Elev., 74'; Facility, I-PWM; Procedure No. ILS Runway 11, Amdt. 10; Eff. date, 20 Nov. 69
Sup. Amdt. No. ?; Dated, 10 July 69

17. By amending § 97.31 of Subpart C to establish precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by Klamath Falls ASR minimum altitude vectoring chart.												1. Descend aircraft to MDA after FAF. Precision approach: Runway 14, FAF 6800' 8.5 miles from threshold. Fac. 319°. TDZ elevation, 4086'. Runway 32, FAF 6000' 7.2 miles from threshold. Fac. 139°. TDZ elevation, 4092'. Surveillance approach: Runway 32 FAF 5600' 5 miles from threshold. Fac. 319°. Minimum altitude over 4-mile fix 5300'; over 3-mile fix 5000'. *Sliding scale not authorized. §Hold SE, 1 minute, right turns, 319° Inbnd. #Air carrier reduction not authorized. **Circling not authorized E of Runways 14/32. Inoperative table does not apply to SALS Runway 14.

Missed approach:
§Runway 14—Climb to 7500' direct LFA NDB and hold.
Runway 32—Climb straight ahead to 4600', then climbing left turn to intercept and climb on R 265° LMT VORTAC to 7500' within 10 miles. All maneuvering N of R 263°.
Lost communications:
Runway 14—Climb to 7500' direct LFA NDB and hold.
Runway 32—Climb direct LMT VORTAC; then left-climbing turn R 263° LMT VORTAC to 7500' within 10 miles.
%IFR departure procedures: Climb on SE crs LMT LOC/R 140° LMT VORTAC to 6000', turn right heading 250° to intercept and proceed via R 162° LMT VORTAC to cross LMT VORTAC at or above 7000'; westbound V-122, 6000'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
	Precision approach:											
S-14*	4336	¾	250	4336	¾	250	4336	¾	250	4336	¾	250
S-32	4292	½	200	4292	½	200	4292	½	200	4292	½	200
	Surveillance approach:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-32*	4780	1	688	4780	1	688	4780	1¼	688	4780	1½	688
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	4820	1	728	4920	1¼	828	4920	1½	828	5020	2	928
	ASR/PAR—Condition E: Precision approach—Condition E:											
	DH	VIS	HAT									
S-14*	4336	¾	250									
S-32	4292	½	200									
	Surveillance approach—Condition E:											
	MDA	VIS	HAT									
S-32*	4780	1¼	688									
	ASR/PAR:											
	MDA	VIS	HAA									
C**	5500	3¼	1408									
A	Categories A, B, C, D, 1000–2; category E, 1500–3¼.		T 2-eng. or less—% Runway 14, standard; # Runway 32, 300–1; Runways 7/25 and 18/36, 500–1.			T over 2-eng.—% Runway 14, standard; # Runway 32, 300–1; Runways 7/25 and 18/36, 500–1.						

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Facility, Klamath Falls Radar; Procedure No. Radar-1, Amdt. 3; Eff. date, 20 Nov. 69; Supp. Amdt. No. Radar 1, Amdt. 2; Dated, 16 Jan. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR—Continued

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by LIT ASR minimum altitude vectoring chart.										Descend aircraft after passing FAF. Runway 4, 22, 32, and 35 FAF 5 miles. TDZ elevation, 255'.

Missed approach: Runways 4, 22, 32, and 35—Climb to 2000' on runway heading within 15 miles.
RVR 24', Runways 4, 200-1 required for takeoff Runways 17, 22, 32, and 35.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4	780	RVR 40	525	780	RVR 40	525	780	RVR 40	525	780	RVR 50	525
S-22	720	¾	465	720	¾	465	720	¾	465	720	1	465
S-32	700	1	445	700	1	445	700	1	445	700	1	445
S-35	760	1	505	760	1	505	760	1	505	760	1	505
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	780	1	523	800	1	543	980	1½	723	980	2	723
A	Standard.		T 2-eng. or less—Standard. #				T over 2-eng.—Standard. #					

City, Little Rock; State, Ark.; Airport name, Adams Field; Elev., 257'; Facility, LIT ASR; Procedure No. ASR-1, Amdt. 4; Eff. date, 20 Nov. 69; Sup. Amdt. No. Radar 1, Amdt. 3; Dated, 19 Nov. 66

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
070°	210°	20 miles.	7600	15 miles.	7100							1. For all runways: Descend aircraft to MDA after FAF. Runway 4, FAF 6 miles from threshold; Runways 10 and 22, FAF, 5 miles from threshold.
210°	350°	20 miles.	4100	15 miles.	3900							
350°	070°	20 miles.	5100	15 miles.	4600							
All quadrants:				10 miles.	*3500							2. High terrain to 1820' E, SE, and S of airport within 2.3 miles.
090°	220°					5 miles.	3200					#Runways 10/16, 800-2 night.
220°	090°					5 miles.	3000					Supplementary charting information:
												CYE NDB: Hold SW, 1 minute, left turns, 044° Inbnd.
												LHY VORTAC: Hold E, 1 minute, right turns, Inbnd crs, 268°.
												TDZ elevations: Runway 4, 956'; Runway 10, 929'; Runway 22, 929'.

*1000' vertical clearance within 3 miles provided over WDAU 2744' tower 5.6 miles NW.
Missed approach:
Runway 22—Climb to 3000' direct to Crystal Lake NDB and hold.
Runway 4—Climb to 3600' on crs 043° from AV LOM, climbing right turn to 4000' direct to Lake Henry VOR and hold.
Runway 10—Immediate left-climbing turn to 3600' on a crs of 043° from AV LOM then direct to LHY VOR at 4000' and hold.
#Inoperative components table does not apply to ALS and HIRL Runway 4 nor HIRL Runway 22.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4#	1940	1¾	984	1940	1¾	934	1940	1¾	984	1940	2	984
S-10	1840	1¾	911	1840	1¾	911	1840	1¾	911	1840	2	911
S-22#	1840	1¾	911	1840	1¾	911	1840	1¾	911	1840	2	911
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1940	1¾	984	1940	1¾	984	1940	1¾	984	1940	2	984
A	1200-2.		T 2-eng. or less—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.				T over 2-eng.—Runway 4, 600-1; Runways 10/16, 600-2#; Standard all others.					

City, Wilkes-Barre-Scranton; State, Pa.; Airport name, Wilkes-Barre-Scranton; Elev., 956'; Facility, AVP Radar; Procedure No. Radar-1, Amdt. 5; Eff. date, 20 Nov. 69; Sup. Amdt. No. Radar 1, Amdt. 4; Dated, 7 Dec. 67

18. By amending § 97.31 of Subpart C to amend precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

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

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by Chicago-Midway ASR minimum altitude charts. Radar will provide 1000' vertical clearance within 3-mile radius of the following towers: 2049', 9 miles NE; 1260', 11 miles WNW; 1125', 11 miles NW; 1505', 8 miles NE; 1549', 8 miles NE.										1. Descend aircraft after passing FAF 5 miles from threshold all runways. 2. Runway 18 minimum altitude over 2-mile fix, 1300'. Supplementary charting information: Runway 4R TDZ elevation 617'; Runway 22L TDZ elevation 611' Runway 9 TDZ elevation 618'; Runway 27 TDZ elevation 614' Runway 13R TDZ elevation 610'; Runway 31L TDZ elevation 611' Runway 18 TDZ elevation 611'; Runway 36 TDZ elevation 615' 2049' tower 8.6 miles NE of airport. 776' tank 1.6 miles SE of airport. 819' stack 0.6 mile SSW of airport. 968' stack 2.3 miles NNE of airport. 807' stack 1.5 miles NW of airport. 756' tank 1 mile NW of airport. 7:1 driftdown applied to 899' MSL building (U.C.) at 41°43'30"/87°41'00.

Missed approach:
Runways 4R, 9, and 13R—Make right turn and proceed to EON VORTAC via EON R 001° at 2300'.
Runways 22L, 27, 31L, and 36—Make left turn and proceed to EON VORTAC via EON R 001° at 2300'.
Runway 18—Climb to 2300' and proceed to EON VORTAC via EON R 001°.
NOTE: MTI feature of ground radar equipment required for all surveillance approaches.
Air carrier reduction for ALS not authorized.
Inoperative component table does not apply to ALS Runway 13R.
Inoperative component table does not apply to HIRL Runways 13R and 31L.
Inoperative component table does not apply to REIL's Runways 4R, 31L.
Sliding scale not authorized.
CAUTION: Tall buildings and towers to 2049' at 8 miles NE; plan departure to avoid this area.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-4R	1100	1	483	1100	1	483	1100	1	483	1100	1	483
S-9	1100	1	482	1100	1	482	1100	1	482	1100	1	482
S-13R	1060	RVR 50	450	1060	RVR 50	450	1060	RVR 50	450	1060	RVR 50	450
S-18	1060	1	449	1060	1	449	1060	1	449	1060	1	449
S-22L	1220	¾	609	1220	¾	609	1220	¾	609	1220	1¼	609
S-27	1080	1	466	1080	1	466	1080	1	466	1080	1	466
S-31L	1100	1	489	1100	1	489	1100	1	489	1100	1	489
S-36	1120	1	505	1120	1	505	1120	1	505	1120	1	505
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C Runways 4R, 9, 13R, 18, 27, 31L, 36	1120	1	501	1120	1	501	1120	1½	501	1180	2	561
C Runway 22L	1220	1	601	1220	1	601	1220	1½	601	1220	2	601
A	Standard.			T 2-eng. or less—200—RVR 24', Runway 13R; 200-1 all others.			T over 2-eng.—200—RVR 24', Runway 13R; 200-½ all others.					

City, Chicago; State, Ill.; Airport name, Chicago-Midway; Elev., 619'; Facility, Midway Radar; Procedure No. Radar-1, Amdt. 14; Eff. date, 20 Nov. 69; Sup. Amdt. No. 13; Dated, 25 Sept. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR—Continued

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
As established by GSW ASR minimum altitude vectoring chart.										Descend aircraft after passing FAF. 1. Runway 13, FAF 5 miles from threshold. TDZ elevation, 568'. 2. Runway 31, FAF 5 miles from threshold. TDZ elevation, 536'. 3. Runway 35, FAF 5 miles from threshold. Minimum altitude over 3-mile Radar Fix 1500'. TDZ elevation, 541'. 4. Runway 17 FAF 5 miles from threshold. Minimum altitude over 3-mile Radar Fix, 1500', TDZ elevation, 546'.

Missed approach:
Runway 13—Climbing right turn to 2100' on heading 190° within 20 miles.
Runway 17—Climbing right turn to 2100' on heading 190° within 20 miles.
Runway 31—Climbing left turn to 2000' on heading 300° within 20 miles.
Runway 35—Climbing left turn to 2000' on heading 300° within 20 miles.
CAUTION: Lighted highway paralleling Runways 17-35 to the W may be mistaken for runway lights during periods of reduced visibility.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D			E		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	980	RVR 24	412	980	RVR 24	412	980	RVR 24	412	980	RVR 50	412	980	RVR 50	412
S-17	900	1	354	900	1	354	900	1	354	900	1	354	900	1	354
S-31	880	¾	344	880	¾	344	880	¾	344	880	1	344	880	1	344
S-35	900	1	359	900	1	359	900	1	359	900	1	359	900	1	359
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1020	1	452	1020	1	452	1020	1¼	452	1120	2	552	1540	2	972
A	Standard.			T 2-eng. or less—Standard.				T over 2-eng.—Standard.							

City, Fort Worth; State, Tex.; Airport name, Greater Southwest International Dallas-Fort Worth Field; Elev., 568'; Facility, GSW ASR; Procedure No. ASR-1, Amdt. 7; Eff. date, 20 Nov. 69; Sup. Amdt. No. 6; Dated, 13 Mar. 69

These procedures shall become effective on the dates specified therein.

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

Issued in Washington, D.C., on October 15, 1969.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 69-12574; Filed, Oct. 30, 1969; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4721]

[Anchorage 061188, 061689]

ALASKA

Withdrawal for Administrative Site; Revocation of Air Navigation Site No. 222 and Public Land Order No. 640

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, and reserved as an administrative site for the maintenance of a Federal Aviation Administration air navigation facility:

MIDDLETON ISLAND, ALASKA (UNSURVEYED)

Approximate latitude 59°28' N., longitude 146°19' W.

All of Middleton Island to the line of mean high tide, lying south of Air Navigation Site No. 191 of September 22, 1942, excepting therefrom the following described land, which has been declared to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471), as amended:

Commencing at USC&GS triangulation monument "Middleton", which is the true point of beginning; thence N. 55°56' W. approximately 1,400 feet to the line of mean high tide; thence northerly along the line of mean high tide to the northwest corner of lands described in Public Land Order No. 640, which is the same as the southwest corner of the land described in Air Navigation Site No. 222; thence S. 55°56' E., approximately 3,280 feet to a point on the southerly boundary of Air Navigation Site No. 222; thence S. 34°04' W. approximately 2,464 feet to a point; thence N. 55°56' W., approximately 2,500 feet to the point of beginning, containing approximately 182.114 acres.

The area withdrawn contains approximately 1,722 acres.

2. Air Navigation Site No. 222 of February 14, 1945, as amended March 11, 1955, and Public Land Order No. 640 of May 3, 1950, withdrawing the land described in paragraph 1 above, for use of the Coast Guard and Department of the Air Force, respectively, are hereby revoked.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the public lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses, or permits will be issued only if the Federal Aviation Administration finds that the proposed use of the lands will not interfere with the proper operation of its facilities on the lands.

Public Land Order No. 4582 of January 17, 1969, which withdrew all unreserved public lands in Alaska for the determination and protection of the rights of native Aleuts, Eskimos, and Indians of Alaska, does not affect the above described lands which have been reserved since prior to January 17, 1969, and which, by this order, are withdrawn simultaneously with the revocation of the withdrawals cited in paragraph 2 above.

WALTER J. HICKEL,
Secretary of the Interior.

OCTOBER 24, 1969.

[F.R. Doc. 69-12994; Filed, Oct. 30, 1969; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18397; FCC 69-1170]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

First Report and Order

In the matter of amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to Community Antenna Television Systems; and inquiry into the Development of Communications Technology and Services to Formulate Regulatory Policy and Rulemaking and/or Legislative Proposals.

1. The Commission's notice of proposed rule making and notice of inquiry, issued on December 13, 1968 (15 FCC 2d 417, 33 F.R. 19028), divided this proceeding into five parts. Under that notice and subsequent orders, the filing times for comments and reply comments on various parts, or portions thereof, were scheduled for different dates. Comments and reply comments on paragraphs 11–20 and 23–25 of Part III of the December 13 notice have been received and considered by the Commission. This first report and order treats only some of the matters involved in those paragraphs, i.e., CATV program origination, its economic basis and the proposed equal time, sponsorship identification, and fairness requirements.

2. In this connection, we wish to emphasize that in this complex rule making proceeding, it would be wholly impracticable to attempt to issue a comprehensive set of rules governing all aspects. Rather, we shall split off parts for action, deferring action on other parts pending further analysis or further proceedings. Thus, while we act here on CATV origination, whether it should be required, whether commercials should be allowed, and certain basic requirements such as equal opportunities for political candidates, fairness, and sponsorship identification, we have not acted on the related diversification issues. Clearly, with origination, there should be multiple ownership rules, particularly with respect to cross-ownership of broadcasting and CATV facilities in the same area. But since the diversification issues require lengthier analysis and study, we act now, as we can, in the above noted areas. For, it is, we think, of the utmost importance that we supply needed guidance to the industries involved, to State and municipal entities, and to other interested persons, as to the Federal regulatory policies in this vital area. Moreover, we note that Congress is considering legislation in this area. While the legislation is believed to be aimed essentially at resolving the unfair competition issues treated in Part IV of the notice, our policies in the origination area (Part III) may also be relevant to the Congress in its consideration of the above noted legislation. We think it desirable, therefore, that Congress be fully informed of these policies, so that it may take them into account, either as appropriate background to the legislation or as matters to be included in the legislation. We state, as we have before, that in this important new area we welcome congressional review and whatever guidance Congress may wish to afford.

I. CATV Program Origination in General

3. In paragraphs 12–14 of the notice the Commission set forth its tentative view that CATV program origination is in the public interest and should be encouraged. We further stated our belief (paragraphs 12, 26) that the public interest would be served by encouraging CATV systems to operate as common carriers on some channels in order to afford an outlet for others to present programs of their own choosing, free from any control of the CATV operator as to content (except as required by the Commission's rules or applicable law), and to provide other communcations services. These tentative conclusions recognize the great potential of the cable technology to further the achievement of long-established regulatory goals in the field of television broadcasting by increasing the number of outlets for community self-expression and augmenting the public's choice of programs and types of services (Notice, paragraphs 5, 13). They also reflect our view that a multipurpose CATV operation combining carriage of broadcast signals with program origination and common carrier services, might best exploit cable channel capacity to the advantage of the public and promote the basic purpose for which this Commission was created: "regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges * * *." (Section 1 of the Communications Act.) After full consideration of the comments filed by the parties, we adhere to the view that program origination on CATV is in the public interest.

4. Those commenting on behalf of CATV interests generally agreed that CATV program origination serves public interest and should be encouraged, though they almost uniformly opposed our proposal to require origination as a condition for the carriage of broadcast signals (Notice, paragraphs 15–16). On the other hand, broadcast interests—particularly those without CATV holdings—generally urged that program origination should be prohibited altogether, or at least restricted to local originations of the public service type, and that advertising should be barred. It is claimed that this is necessary to prevent potential fractionalization of the audience for broadcast services and a siphoning-off of program material and advertising revenue now available to the broadcast service.

5. We are not persuaded that the position of the broadcasters has merit. In the first place, if the public is to be provided with additional program choices and different types of services and chooses to take advantage of them, it appears inevitable that there may be less viewing of the previously existing services.[1] However, we do not think that the public should be deprived of an opportunity for greater diversity merely because a broadening of selections may spread the audience and reduce the size of the audience for any particular selection. Such competition for audience attention is not unfair, since broadcasters and CATV originators (both the CATV operator and others originating on common carrier channels) stand on the same footing in acquiring the program material with which they compete.

6. Second, a loss of audience or advertising revenue to a television station is not in itself a matter of moment to the public interest unless the result is a net loss of television service. Federal Communications Commission v. Sanders Bros. Radio Station, 309 U.S. 470, 475–476; Carroll Broadcasting Co. v. Federal Communications Commission, 258 F. 2d 440 (C.A.D.C.). The Commission has repeatedly recognized, of course, that a CATV-caused loss or deterioration of free broadcast service would be detrimental to the public interest since it does not presently appear that CATV could replace such service for viewers not economically reached by cable or those unable to afford CATV charges. However, despite much speculation in the comments, we find no factual basis in this record or other persuasive reason for concluding that CATV origination is likely to cause such a loss in the near future (i.e., the next decade).[2]

7. Contrary to the misconception in some of the comments, the December 13 notice did not propose to restrict CATV to local originations or to bar originations of the entertainment type or to preclude CATV network operations on an interconnected basis, and our finding as to absence of any real basis for the asserted fears of the broadcasters is not based on any restrictions of this nature. While we regard augmented opportunities for community self-expression as extremely important, the Commission has also sought to promote new national and regional television networks generally and intends actively to explore this possibility for CATV (see e.g., Notice, footnote 8 and paragraph 60). Our experience in the broadcast field (both commercial and noncommercial), as well as comments filed in this proceeding, leads us to believe that the successful inauguration of any new network

[1] It is possible, of course, that some of the viewers of the new services may be persons who either did not watch the old services or who increase their viewing hours in light of the added diversity. To that extent, CATV program origination may not affect the audience previously available to the broadcast service.

[2] The above statement is to be contrasted with the views expressed in Midwest Television, Inc., 13 F.C.C. 2d 478, and Part IV of the December 13 notice herein as to CATV operations with distant signals in major markets under present circumstances.

is not an easy matter, to a significant extent because of the high cost and other difficulties in producing or otherwise procuring programing in sufficient quantity and quality for network operations.[3] Moreover, CATV faces an additional hurdle in that its present subscriber base, while affording fees not available to broadcasters, is nevertheless far smaller than the potential audience open to a new broadcast network. This situation might change substantially if CATV systems commenced operations in major population centers, achieved high penetration percentages, and found ways to expand their service to outlying areas through microwave or other technological means. However, we think that in any event it would be a substantial period of time before any CATV network is in a position generally to outbid the broadcast service for the programing now presented by that service or to siphon-off audience and advertising revenue to a degree that might have detrimental impact on established broadcast service to the public. See also, here, the discussion in paragraphs 9–10, infra.

8. Third, and most important, in the event that adverse consequences on service by individual stations or broadcast networks should develop or appear imminent, the Commission can and would take such remedial or preventative action as may be necessary to preserve service to the public. As stated in the notice (par. 14) "the Commission's authority to regulate the use of broadcast signals as a base for CATV program origination encompasses power to adopt regulations reasonably designed to prevent such operations from having detrimental consequences to the public interest and to promote their development along lines likely to maximize the potential benefits to the public." We intend to keep a watchful eye on the progress and impact of CATV origination and will be alert to protect the public against any significant overall loss or impairment of television service.

9. In the field of broadcast subscription television, we have already adopted certain measures designed to avoid any adverse impact on free broadcast service. Subscription Television, 15 FCC 2d 466, 504–509. The Commission clearly has the authority, we believe, to impose similar or other appropriate safeguards for CATV origination. We believe that we should leave this an open matter, for further consideration (if the need arises) either at some later date in this rule making proceeding or in another rule making proceeding, to be commenced after we gain some further experience in this area.

10. We shall expand briefly on our reasons for now treating over-the-air and wire pay-TV differently. First, we note that, in the former field, we have data from the Hartford trial. We recognize the potential of the over-the-air pay-TV service, with its ability to reach large numbers of persons throughout the station's service area, and to obtain revenues on a per program basis. The development of pay-TV on CATV systems is much more difficult to foresee at this time. There has been no comparable experiment or test of a substantial nature. The large community remains to be wired, from almost a zero starting point. We have not authorized the use of distant signals without payment as a base for CATV operations in the larger markets. We are reluctant to take any further action which might inhibit cable development in these markets, unless and until experience gives some indication of a trend calling for action in the public interest. It may be that CATV systems, while originating some programing of types which might be found on free television, would not obtain such revenues that—taking into account its penetration in these markets—[4] there would be any significant diminution of fare presently available free to the American public. Finally, we do impose one restriction on CATV designed, in part, to insure that the public will receive, to some significant extent, a different service—namely, that the programing originated on cable cannot be interrupted by commercials (i.e., commercials permissible only at natural breaks). See discussion, infra, paragraphs 31–38. In short, it appears to us that wire origination operations in the larger markets may face different, and perhaps more difficult, problems than over-the-air pay-TV; that we lack any present substantial experience in this respect in the wire area; and that, therefore, the public interest would be best served for the present by encouraging CATV to experiment and develop its originations free from restriction as to interconnection or limitations as to types of programing, in the expectation that the end result will be significant added diversity for the public. We stress again that this is simply our conclusion as to how best to proceed at this initial stage, and that as we gain experience, we can take such action as may be required in the public interest.

11. We also deem it appropriate at this time to amplify our view that CATV systems should be encouraged, and perhaps ultimately required, to lease cable space to others for originations of their own choice on a local or interconnected basis, in order to promote diversity of control over the media of communication and diversity of program choices as well as to increase the opportunities for television communication with the public by more widespread sources. We adopt no rules at this time, since this is an area which we believe requires further study and analysis of the comments.

12. The most marked potential of the cable technology for enhancing communications services to the public stems from its expanding channel capacity. CATV cable started with five channels or less, now generally has 12, and holds promise of 20–40 or more. From a diversity standpoint, it seems beyond dispute that one party should not control the content of communications on so many channels into the home. For, it has long been a basic tenet of national communications policy that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." Associated Press v. United States, 326 U.S. 1, 20; Red Lion Broadcasting Co., Inc. v. Federal Communications Commission, 395 U.S. 367; United States v. Storer Broadcasting Co., 351 U.S. 192; The Goodwill Stations, Inc. v. Federal Communications Commission, 325 F. 2d 637, 640 at footnote 5; First Report and Order in Dockets Nos. 14895 and 15233, 38 FCC 683, 699–700.

13. In one sense, as pointed out in the comments, traditional CATV operations further the goal of diversity simply by carrying multiple broadcast signals. While CATV operators select the signals carried (within the confines of the applicable Commission rules), they generally have no control over the content of the communications on the signals selected.[5] However, the principle of diversity encompasses more than diversity of control; it includes also the important factor of diversity of program choices available to the public. As reflected in our proposal to require CATV program origination as a condition for the carriage of broadcast signals, we do not think, given the present broadcast mode of operations, that significant additional program choice can be obtained by simply adding more broadcast signals to provide 20–40 channels of programing to subscribers. There are only three national television networks and a large percentage of our broadcast stations are affiliated with these networks. While network-affiliated stations also present nonnetwork programs and there are an increasing number of independent and educational stations, stations in different communities broadcast substantially the same nonnetwork programs over any extended period of time.[6] See, e.g., Midwest Television, Inc., 15 FCC 2d 478, 484, 501. Thus, beyond basic broadcast service (consisting of the signals of the three network, one independent, and one educational station), the diversity gained by cumulative broadcast signals is largely a matter of choice of viewing times, rather than any real additional choice in terms of new or different programing.

[3] Another very important factor in the broadcast field is the present lack of competitively equal outlets in many markets.

[4] We note that, unlike operation with distant signals (see Notice, paragraphs 34, 36), we have no present indication of the degree of penetration CATV, operating with originations but no distant signals, might achieve in these large markets. This, however, is a significant factor to be included in the public interest judgment discussed above.

[5] This kind of diversity is diminished if the CATV operator has an ownership interest in broadcast stations carried on the system, or if he "programs" a channel by selecting programs from a number of distant stations. In such cases, he is no longer a passive conduit for program services designed by others.

[6] Indeed, it is this which causes broadcaster concern as to methods of affording independent stations (and network stations to the extent that they present nonnetwork programs—generally about 45 percent of their schedule) some measure of exclusivity against duplication by other, more distant broadcast signals carried on the cable.

We believe that much more significant additional choice of programing is likely to be achieved in the long run if some cable channels are devoted to program origination.

14. While we have accordingly concluded that, at least for the present, CATV operators should be eligible to engage in program origination, and encouraged or even required to do so, the December 13 notice proposed to limit origination by the CATV operator (apart from automated services) to one channel. This proposal is based on our tentative view that one entity should not control the content of the program materials on all cable channels not used for carriage of broadcast signals. It also accords with the long-standing principle in the television broadcast field that one entity should not be authorized, or have an interest in, more than one television channel serving the same area. In other words, the proposed one-channel limitation is designed to promote diversity of control and not to limit the quantity of origination on the cable or to restrict the opportunities for achievement of maximum diversity of program choices to the public. On the contrary, the realization of such benefits for the public is the Commission's basic goal, and we think that they are more apt to be achieved if others besides broadcasters and CATV operators have access to the cable channel capacity to reach the public with communications of their choice, free from control by the CATV operator as to content. The comments have raised the issue of whether there should be a limitation based on percentage of channels (e.g., to take into account the difference between a 12-channel and a 40-channel system), or whether there should be an initial period in which the CATV operator would not be restricted to only one channel for origination. We shall consider these alternatives in our subsequent reports in this general area of diversification. It is sufficient to note here that there is clearly need for regulatory action in this respect.

15. There is also, in our opinion, a need for additional means by which various entities can communicate with the public via television at low cost. Access to the public via the broadcast medium is necessarily restricted to a few, and those able to obtain a license—though under an obligation to operate in the public interest—are not common carriers (see section 3(h) of the Communications Act) and generally retain control over access to their facilities by others. Cf. Red Lion Broadcasting Co., Inc. v. Federal Communications Commission, 395 U.S. 367. Moreover, cable television service has tended to develop on a noncompetitive monopolistic basis in the areas served, so that only one cable enters the subscriber's premises. Persons who are not in a position to engage in broadcast or CATV operations or to acquire time—or as much time as desired—on the broadcast media, could nevertheless obtain television access to the public if a portion of the channel capacity of a community's only cable system were reserved for their use on a common carrier basis. As indicated in the notice (paragraphs 8, 26), those desiring such access might include political candidates, municipal, and State governmental authorities, educational interests, civic, and professional organizations, amateur dramatic groups, professional program producers, advertisers, etc. Other entities might well take advantage of the facilities if they were made available on this basis.

16. In light of the foregoing, it is our opinion that the public interest would be served by encouraging CATV systems to operate as common carriers on some channels. Entities desiring to do so should be permitted to communicate with the public in a community, or in a particular segment of a community, or in a number of communities on a State, regional or national basis to the extent that cable facilities are available and are interconnected.[7] CATV operators should be able to furnish studio facilities and technical assistance as part of the service, but should have no control over program content except as may be required by the Commission's rules and applicable law. And here, again, we think that at present innovation and experimentation should be encouraged and that such public use of CATV facilities should be free from restriction by local, State, or Federal authority (or by private parties) as to the types of program material to be presented (with the exception of possible restrictions applying to illegal lotteries, obscenities, etc.). However, action will be forthcoming only after further study.

17. We believe it important also to set out the Commission's position on two other matters—interconnection of cable systems and commercials on origination channels. The Commission would feel compelled to oppose on behalf of the public, any proposal which would preclude CATV systems from leasing channels to others for program origination of any kind or from interconnecting on a regional or national basis for any purpose, including the distribution of entertainment type programing. We strongly believe that the promise of this new technology should not be stifled by foreclosing the possibilities that some of these 20–40 channels might be opened to others on a common carrier basis and that significant new diversity of programing and other services might be brought to the American people through regional or national interconnection, including competition to the present three national television networks. In the domestic satellite proceeding it has been suggested that CATV cable channel capacity might be utilized as a means for local distribution of satellite communications. Finally, we note that the public interest would be best served by permitting CATV operators to derive revenues from commercials to help defray the cost of their originations, or programing presented by others on leased channels, and provide the public with a new type of service—one where commercials occur only at natural intermissions or breaks in program material (see paragraphs 31–38 below).

II. Special Rule Making Proposals

A. Required origination and the economic basis

18. *Origination requirement.* In the December 13th notice, the Commission proposed to require origination by all but small systems as a condition for the carriage of broadcast signals (pars. 16–17). Most of those favoring encouragement of origination (with some exceptions such as the city of New York and the Screen Actors Guild) were opposed to any mandatory requirement. Apart from jurisdictional challenges, it is asserted that CATV systems should retain flexibility to do as they judge best in their own circumstances, that origination is beyond the means of many existing systems, and that a requirement imposed on a reluctant operator might result in token compliance rather than the initiative and experimentation needed to develop the full potential.

19. After full consideration of the comments, we remain of the view that the public interest would be served by conditioning, where practicable, the carriage of broadcast signals upon a requirement for program origination. It appears to us that this would be the most effective way to encourage origination. While such a requirement would make no difference for those systems who would voluntarily originate in any event, it should stimulate origination by systems which would otherwise not do so.[8] Moreover, we think it reasonable to place this condition on the carriage of broadcast signals. The use of broadcast signals has enabled CATV to finance the construction of high capacity cable facilities.[9] In requiring in return for these uses of radio that CATV devote a portion of the facilities to providing needed origination service, we are furthering our statutory responsibility to "encourage the larger and more effective use of radio in the public interest" (section 303(g)). The requirement will also facilitate the more effective performance of the Commission's duty to provide a

[7] We recognize, of course, that systems with smaller channel capacity may have less space to offer for use by others than systems with many channels, and that some may have nothing left after providing for carriage of broadcast signals and CATV origination. In paragraph 25 of the notice the Commission posed a question as to whether automatic services should be subject to displacement if there is a greater demand for leased channels than can be accommodated. A similar issue might ultimately arise with respect to a possible ceiling on the number of broadcast signals that may be carried where channel scarcity is a factor.

[8] It appears from the comments, for example, that one CATV system (717 subscribers) is required by its franchise to originate, and does originate, a substantial variety of programs for approximately 30 hours a month. A commonly-owned system in the same State (1,154 subscribers) is under no such requirement and does not originate any programing.

[9] Moreover, we have proposed the use of 12 GHz frequencies in a local distribution service to permit CATV systems to achieve economies in construction and to expand their service areas. Notice of Proposed Rulemaking in Docket No. 18452 (FCC 69–141).

fair, efficient, and equitable distribution of television service to each of the several States and communities (section 307 (b)), in areas where we have been unable to accomplish this through broadcast media.

20. In addition, the origination requirement will help ensure that origination facilities are available for use by others originating on leased channels. We think that this is necessary as a practical matter if the public is to take advantage of any common carrier offering on a widespread basis. It is unlikely that many would-be lessees would possess their own origination equipment and studio, particularly those desiring only occasional use. For example, political candidates cannot make effective use of cable facilities for communication with the public unless the CATV system has origination equipment and provides technical assistance. In view of the importance of an informed electorate and speech concerning public affairs to self-government, the "right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences", and the CATV system's monopoly position over cable access to the subscriber's premises, we think that CATV operators have an obligation analogous to that of the broadcasters "to give suitable time and attention to matters of great public concern" and also to have the equipment needed for origination by others. Red Lion Broadcasting Co. v. Federal Communications Commission, 395 U.S. 367, 389–394. The Commission is not powerless to insist that CATV do so as a condition for the use of broadcast signals, and certainly for the use of microwave radio frequencies in the conduct of its business. Moreover, in authorizing the receipt, forwarding and delivery of broadcast signals, the Commission is in effect authorizing CATV to engage in radio communication, and may condition this authorization upon reasonable requirements governing activities which are closely related to such radio communication and facilities. Sections 2(a), 3(b), and 301 of the Communications Act.

21. While the public interest would be served by origination on as many systems as possible, and the public need may be greatest in small CATV communities lacking local television broadcast media, we recognize the validity of the argument that origination may be beyond the means of some systems. The notice specifically requested suggestions as to a possible cutoff point for mandatory origination in light of the cost of equipment and personnel minimally necessary for local origination. Some of the comments have been very helpful in this respect, particularly those of TeleMation, Inc.; Winchester TV Cable, Inc.; Jefferson-Carolina Corp.; Port Huron TV Cable Co.; Chillicothe Telcom, Inc.; and the filings based on the TeleMation study (e.g., Jerrold Corp.; Buckeye Cablevision, Inc.; etc.).

22. TeleMation, a manufacturer of cablecasting equipment, appended as Table I to its filing the following summary of estimated costs of construction and operation of five cablecasting systems of varying degrees of sophistication (ranging from a full color system with two live vidicon cameras and a mobile van to a minimum monochrome system in which the Weather Channel™ doubles as a live camera): [10]

[10] TeleMation's estimated costs have been used by a number of those filing on behalf of CATV systems, and have not been challenged in the comments of others.

COSTS AND TECHNICAL DATA [11]

	Color system	Complete monochrome system	Basic monochrome system	Small monochrome system	Minimum monochrome system
Television equipment	$80,000	$36,000	$19,000	$7,900	$4,485
Studio construction and furnishings	15,000	9,000	5,300	1,600	
Total facilities cost	95,000	45,000	27,300	9,500	4,485
Annual principal and interest on 5-year schedule of amortization	22,200	10,510	6,315	2,220	1,050
Operating costs—annual labor (with G&A):					
Director	14,400	14,400	9,450	4,720	1,000
Technician	10,150	5,075	2,550	2,550	500
Other	4,000	3,000	1,000		
Total labor	28,550	22,475	13,000	7,270	1,500
Maintenance	2,850	1,350	820	285	125
Power	325	240	180	100	50
Promotion	1,200	600	300	150	
Total operating costs—annual	32,925	24,665	14,300	7,805	1,675
Total annual cost of facilities and operation	55,125	35,175	20,615	10,025	2,725
Number of subscribers needed to support cablecasting	1,150	730	430	215	55
Percent of net subscriber revenue needed to support cablecasting	15% of 7,500	16½% of 4,500	17% of 2,500	21½% of 1,000	11% of 500
Other costs—annual:					
(a) Weather channel	1,285	Included	Included	Included	Included
(b) Message channel	535	535	535	340	340
(c) News and stock channel	8,400	8,400	8,400	8,400	
(d) Films	9,600	9,600	6,000	NA	NA
(e) Modulators—as needed at $1,000/channel	470	470	470	470	235
Total other costs—Optional	20,290	19,005	15,405	9,210	575
Number of subscribers needed to support additional cablecasting options	425	395	325	190	12
Percent of net subscriber revenue needed to support cablecasting	4% of 7,500	9% of 4,500	13% of 2,500	19% of 1,000	3% of 500

[11] TeleMation appends the following notes to its analysis of cablecasting costs set forth above:
Line 1—Television equipment includes: All video, audio, lighting (excluding overhead pipe grids and power distribution), and installation in prepared studio. Television equipment also includes modulators to convert video and audio signals to proper channel frequency.
Line 2—Studio construction assumes that ownership is taken for a new or renovated building including air conditioning, power distribution and minimum space required for satisfactory programing. Costs and space estimated for cablecasting systems are described in system descriptions.
Line 3—Assumes 25 percent down-payment, 4½% add-on interest, over a 5-year period of amortization and payment.
Line 4—Operating costs were estimated as follows:
1. Labor:
a. Director at $850 per month, plus 7 percent payroll benefits, plus 35 percent other G and A costs.
b. Technician at $60 per month, plus same benefits and G and A ratios as above.
c. Other labor costs include miscellaneous part-time help and time sharing of other system personnel.
d. Amount of labor man hours allocated is less than full time for basic, small and minimum systems.
2. Maintenance is 3 percent of facilities cost per year.
3. Power cost assumes adequate lighting and other requirements for studio equipment at $0.03 per kilowatt hour. Studio is assumed to be in operation for programing for approximately 3 hours per day for 300 days annually. Automatic equipment operates 24 hours per day.
4. Promotion is considered to be in addition to regular system promotion expense.
Line 5—Subscriber income assumes $60 per year gross ($5 per month) less 20 percent for revenues paid directly for such things as franchise costs and other out-of-pocket expenses, resulting in a net revenue of $48 per year per subscriber.

23. According to TeleMation, the complete monochrome cablecasting system includes:

Two live vidicon cameras with zoom lenses.
One film chain with two 16-millimeter projectors, one 35-millimeter projector, and a film chain camera.
Minimum necessary lighting and audio equipment to produce professional looking programs.
EIA–RS 170 standards for video signal. Cameras are of high quality with 800 to 1,000 lines of horizontal resolution and a signal to noise ratio of approximately 50 db.
Two video tape 1-inch helical scan recorders.
Fader type switching with preview.
Screen splitter special effects generator.
Adequate monitoring and test equipment.
Control console with necessary remote controls and intercom system.
Automatic Weather Channel ™ with slides on same channel.
One thousand square feet of studio space at $8 per square foot plus $1,000 furnishings.
No mobile van is included, but the equipment is designed so that necessary equipment for remote cablecasting can be transported satisfactorily in a station wagon or other company vehicle.

The basic monochrome system includes:

Single live camera with zoom lens.
One film chain connected to the Weather Channel ™ with one 16-millimeter film projector and one 5-millimeter film projector.

Minimum necessary lighting and audio to produce professional looking programs.
EIA-RS 170 standards of video signal. Cameras are of high quality with 800 to 1,000 horizontal resolution and signal to noise ratio of approximately 50 db.
Two video tape 1-inch helical scan recorders.
Vertical interval switching with preview.
Minimum monitoring equipment.
Automatic Weather Channel TM on same channel.
Six hundred square feet of studio space at $8 per square foot, plus $500 furnishings.
No mobile van is included but equipment is designed so that equipment can be satisfactorily transported in a station wagon or other company vehicle for remote programing.

The color system is more elaborate than the above two, whereas the small and particularly the minimum monochrome systems are much more modest.[12]

24. There is no general consensus in the comments as to an appropriate cutoff point for an origination requirement. Micanopy Group Cos. state that origination should not be required for systems serving fewer than 2,000 subscribers, whereas Garden Spot Cable TV Services, Inc., asserts that systems with less than 2,500 subscribers are not in a position to produce meaningful local program origination. Port Huron TV Cable Co. states that it lost money on origination for 3 years until it reached 3,500 subscribers, and is making a modest profit with 4,900 subscribers.[13] TeleMation has appended the cablecasting schedule of the CATV system in South Lake Tahoe, Calif. (3,750 subscribers) which shows a variety of originations for several hours daily, 5 days a week. Chillicothe Telcom, Inc., asserts that it is not breaking even with 4,700 subscribers, but hopes to do so by the end of 1969.[14] Jefferson-Carolina Corp. originated on its system in Cheraw, S.C. (pop. 5,000) on a minimum budget with modest capital investment and found that operating expenses were entirely defrayed by advertising revenue; yet its experience was to the contrary in Lumberton (population approximately 15,000). Several parties urge that size should not be the only controlling factor, as smaller communities lacking other local outlets may have a greater need for—and give more support to—CATV origination than larger communities with other local media and higher demands as to quality. It is further asserted that there should be a grace period for experimentation before any requirement becomes effective. Those commenting on behalf of CATV interests are in agreement that advertising should be permitted to help support the cost of origination.

25. While some of the parties have supplied valuable information concerning their experience with origination, its cost and the size of the systems involved, it is obvious that the systems discussed in the comments constitute only a small percentage of the systems now engaged in origination and may not be typical of the norm. According to TV Factbook, Services Volume (1969–70 edition, No. 39, pp. 363–a to 591–a), approximately 206 CATV systems are currently engaged in program origination (e.g. local live, film, video tape),[15] and a substantial number of additional systems plan to originate. Of the 206 systems currently originating, the number of subscribers is approximately as follows:

Number of Subscribers	*Number of Systems*
Under 500	18
500–1,000	36
1,000–2,000	50
2,000–3,500	39
3,500–5,000	24
Over 5,000	39

See also the September 22, 1969 issue of Broadcasting Magazine, p. 46, concerning a recent NCTA survey on cablecasting and advertising by its members. Except in a few instances, the record contains no data about origination by these systems and such pertinent matters as the kinds and amount of origination, equipment used, cost of facilities, annual operating costs, personnel involved, advertising, financial success, or the response of the public to such origination efforts.

26. In the circumstances, we have decided not to prescribe a permanent minimum cutoff point for required origination on the basis of the record now before us. The Commission intends to obtain more information from originating systems about their experience, equipment and the nature of the origination effort. We shall also issue a further notice of proposed rule making calling for additional public comment in light of the matters discussed herein. In the meantime, we will prescribe a very liberal standard for required origination, with a view toward lowering this floor in the further proceedings, should the data obtained in such proceedings establish the appropriateness and desirability of such action. The matter thus remains partially an open one, to be determined finally upon further analysis and experience.

27. The rules set forth in the appendix hereto (see section 74.1111(a)) make the origination requirement applicable to systems with 3,500 or more subscribers, effective January 1, 1971. This standard appears more than reasonable in light of the TeleMation filing,[16] our decision to permit advertising at natural breaks (see pars. 31–38 below), and the 1-year grace period. Moreover, it appears that approximately 70 percent of the systems now originating have fewer than 3,500 subscribers; indeed, about half of the systems now originating have fewer than 2,000 subscribers. We recognize that the 3,500 standard will encompass only a very small percentage of existing systems at present subscriber levels, less than 10 percent.[17] However, it should cover most existing and new systems in the nation's larger communities where the Commission is seeking to promote a new kind of CATV operation, based on good reception of local signals, program origination by the CATV operator and others, and possibly the provision of additional communications services to the public (see December 13 notice, paragraphs 46, 60–61).

28. As pointed out in the comments, smaller communities lacking other local

[12] TeleMation states that the small monochrome system includes:
Single live camera with zoom lens. Synchronizing standards are reduced to industrial two-to-one interlace. There is no video processing outside of that produced by the camera itself. Horizontal resolution is reduced to approximately 550 lines and signal to noise ratio is reduced to approximately 35db. The cameras are less adaptable to broadcast style operating techniques. The zoom lens is reduced in range and type of controls.
There is no film chain although the Weather Channel TM has a projection slot for rented projectors.
Minimum lighting and audio.
One video tape 1-inch helical scan recorder.
One Weather Channel (TM) with reduced number of weather instruments.
Minimum monitoring.
Four hundred square feet of studio space at $4 per square foot as a refurbishing cost.
The camera and video tape recorder can easily be transported in an ordinary automobile for remote cablecasting.

[13] Port Huron originates 5–10 hours of local public service programing a month with black and white equipment which cost $55,500. Present annual operating costs (sharing personnel of a television station at little or no cost to the system) are $72,000, not including $25,000 worth of services performed by shared personnel. Port Huron does not have much needed remote control equipment; nor is it equipped for color, though its subscribers frequently ask for such service.

[14] Chillicothe has been originating 60 hours a month since 1964, with commercials since 1967. While it was then forced to use broadcast gear costing $200,000, Chillicothe states that it could now purchase the same thing in CATV equipment for $141,500. Annual operating costs are $106,250 (sharing some regular CATV personnel). Chillicothe competes for advertising with two local radio stations and a newspaper, and sells in the same manner as the radio stations—charging $3 per spot.

[15] These 206 systems do not include systems originating only automated services (such as time and weather, news ticker, stock ticker, emergency warning system, fire alarm system, etc.), music, and/or community and public service announcements. Nor does this figure include systems engaged in other origination where the number of subscribers was not available.

[16] In so concluding, we have made allowance for the circumstance that TeleMation's estimate of costs may be too low in some respects, e.g. 4½ percent interest expense and labor costs.

[17] The record reflects the following with respect to present system size:

Number of subscribers	Estimated percentage of systems, 1969	Number of systems as of 1969
	Percent	
50–499	50.0	1,130
500–999	19.5	440
1000–2499	19.0	430
2500–4999	7.5	170
5000–9999	3.0	70
Over 10,000	1.0	20
	100.0	2,260

television outlets, or dependent upon only one, have a greater need for local origination and may give more support to CATV origination even if conducted on a comparatively modest basis. A small monochrome system, modest in equipment and cost, would nevertheless permit subscribers to view locally produced programing that otherwise might not be available at all; for example, a debate between local political candidates, a talk by the mayor or a local newscast. It would also afford a television outlet for advertising by local businessmen, who may have no interest in reaching the broader area outside of their market served by a television broadcast station. Moreover, the equipment of the small system (camera and video tape recorder) can be transported in an ordinary automobile for remote cablecasting. The circumstance that so many systems with fewer than 3,500 subscribers (approximately 140) have voluntarily undertaken at least some origination and a substantial number of others plan to do so, seems to indicate a fairly widespread industry belief that origination by comparatively small systems is feasible. Since any effort in that direction is very important in the public interest, we urge cable operators, as does NCTA, to do whatever they can to help satisfy this need. However, until more information is obtained in the further proceedings, we think that origination by smaller systems should continue to develop on a voluntary basis.

29. Clarification has been requested as to the meaning of the phrase "operate to a significant extent as a local outlet by originating" (paragraph 15 of the notice). By "significant extent" we mean something more than the origination of automated services (such as time and weather, news ticker, stock ticker, etc.) and aural services (such as music and announcements). Since one of the purposes of the origination requirement is to insure that cablecasting equipment will be available for use by others originating on common carrier channels, "operation to a significant extent as a local outlet" in essence necessitates that the CATV operator have some kind of video cablecasting system for the production of local live and delayed programing (e.g., a camera and a video tape recorder, etc.). If the cablecasting equipment and technical personnel are available, there should be a natural tendency for the CATV operator to use them for some origination presenting local personages and events. However, as earlier indicated, we do not mean to suggest that origination to a "significant extent" could not also include films and tapes produced by others,[18] and CATV network programing.

30. We will also refrain from any initial regulation relating to the hours of origination, categories of programing, the type of cablecasting equipment, and technical standards. As suggested in the comments, it appears appropriate to afford a period for free experimentation and innovation by the cable operators. Should it ultimately turn out that some requirements are necessary (e.g., equipment, technical standards, minimum hours of operation), we are in accord with the further suggestion in the comments that it would be reasonable to expect more of larger systems than small ones.[19] Moreover, we would anticipate that any requirements might be quite liberal at the outset until the origination operations have had a reasonable opportunity to become established, as in the case of television broadcasting where the required minimum hours of operation are very small for the initial 18 months and gradually increase during four successive 6-month periods (§ 73.651(a) of the Commission's rules).

31. *Economic basis.* After consideration of the comments, we have concluded that advertising should be permitted at natural breaks in originations with no interruption of program continuity. It appears that advertising support (or some other revenue besides regular subscriber fees) may be necessary to contribute to the financing of local origination in some communities, in view of what the record reveals as to the cost of origination equipment and operating expenses.[20] Moreover, advertising support may enable origination operations by smaller systems in smaller communities than would otherwise be the case.[21] There is also indication in the record (e.g., the comments of the Department of Justice; those filed on behalf of Jerrold Corp. and others; Ameco, Inc.; Wheeling Antenna Co., and the American Association of Advertising Agencies) that some advertisers need additional television outlets, particularly those interested in reaching the limited audience served by a CATV system as compared to the much larger audience within the Grade B contour of a television broadcast station.

32. There are, of course, other considerations which must be weighed. The American Civil Liberties Union asserts that advertising on CATV origination would subject CATV to the same motivation as the broadcaster to present programing designed to attract the largest possible audience. Hence, in order to encourage programing for minority audiences, it is urged that advertising should be prohibited, and that any additional financial base to support the costs of origination should be obtained from additional charges to subscribers viewing the originated programs. While this is one of the alternatives proposed in the notice, we think that considerations of practical necessity dictate a different course. Some systems in areas where the need for local origination is greatest simply may not have enough subscribers to support the costs of cablecasting equipment and personnel, even if basic fees are increased or per program fees are charged. Moreover, larger systems in larger communities may be faced with higher origination costs. There are important public benefits to be gained from having cablecasting equipment available on as many systems as possible for local production of programs by the CATV operator and others. In our judgment, these benefits are more likely to be realized on a widespread basis at an early date if we permit advertising at natural breaks than if we insist upon a mode of operation that may be more difficult and take longer to achieve.

33. However, we will leave open the question of whether advertising should be permitted in conjunction with possible eventual CATV network operations. A broad subscriber base might enable the production and distribution of programing financed solely through subscriber fees. Indeed, CATV systems originating locally in this manner may find some competitive advantage in attracting viewers, particularly in the nation's larger cities. See Midwest Television, Inc., 13 FCC 2d 478, 506, footnote 29. CATV operators are, of course, free to originate without commercials if they choose to do so and to experiment in this area. While we believe that the subscribing public should not be required to pay extra fees in order to obtain access to local public service programing or presentations by political candidates on the CATV's origination channel we do not presently contemplate any prohibition against higher monthly fees or per program charges for other minority interest programing, or special charges for other extra services (e.g., burglar alarm and

---

[18] We note that TeleMation has appended as Exhibit C information about films produced by Internet Productions, Inc., of Laguna Beach, Calif., for CATV systems in Southern California. TeleMation states that such programs are geared to cable audiences, having been designed to supplement the programing fare available on television broadcast stations. The record further indicates that programs produced by other such organizations are available to CATV systems, e.g. American Diversified Services, Kingsport, Tenn.; Leeder Cable Services, Inc., Oceanside, N.Y.; Programming Corp. of America, Houston, Tex., etc.

[19] However, TV Factbook indicates that some smaller systems apparently do more hours of local live origination than some of the larger systems.

[20] Despite the claimed importance of distant signals to cable operations in major markets, all of the CATV comments addressing this question claim that subscriber fees alone cannot support origination, and that advertising revenue is necessary.

[21] It is asserted in some of the comments that advertising should not be permitted for the purpose of encouraging origination as there is no guaranty that the CATV operator would devote the proceeds to origination. We do not regard this as sufficient reason for depriving CATV of access to advertising revenue, particularly in view of our decision to require origination as a condition for carriage of broadcast signals on larger systems.

fire detection systems, etc.). In short, here again is an area requiring further study and possible future action only in the light of such study and experience.

34. The potential impact of CATV advertising on television and radio stations in small markets, and on new independent stations in large markets, is also pertinent. The notice specifically requested the parties to address themselves to varying situations in light of the local broadcast media, and sought information as to the nature and effect of existing advertising by CATV systems, including the rates charged and the kinds of advertisers attracted. While many of the comments on behalf of broadcast interests seek a prohibition against commercials on adverse impact grounds, their assertions are phrased in general terms and do not provide specific information or address varying situations. However, a few of the CATV comments do contain some information as to existing rates.

35. Chillicothe Telcom, Inc., which competes for advertising with two local radio stations and a newspaper, charges $3 per spot, the same rate as the radio stations. Winchester TV Cable, Inc., has a $50 hourly rate, and finds that sometimes advertisers will purchase time only if its commonly owned AM station, with its larger coverage, is included in the package. TeleMation asserts that the cost of CATV advertising generally ranges between 35 percent and 200 percent of the local AM radio rate. It appends what it regards as the "fairly typical" rate card of a system with fewer than 1,500 subscribers in Neosho, Mo. (population 7,452), which reflects the following:

Movie schedule sponsorship:
During periods available (when no local origination or educational channel broadcasts) exclusive sponsorship of the Channel 9 (origination) Movie Schedule: $100 monthly.

Profile sponsorship (Monday through Friday schedule):

Local News, 4 minutes	$100 monthly.
Local Sports, 4 minutes	$100 monthly.
Local Weather, 4 minutes	$100 monthly.
Local Featurette, 4 minutes.	$100 monthly.
Editorial, 4 minutes	$100 monthly.
1 minute announcement	$65 monthly.
15 minute, 1 time specials	$50 each.
30 minute, 1 time specials	$100 each.
College basketball:	
Away from home games (14 games, November through March, participation with other sponsors.)	$60 monthly.
24-hour weather channel service:	
Trade Mark or Name on any 1 instrument.	$25 monthly.
1 slide on Carrosel	$15 monthly.
2 slides on Carrosel	$25 monthly.
4 slides on Carrosel	$40 monthly.
Sponsorship of Weather Forecast Exclusively. (Exposure on each sweep of camera.)	$150 monthly

All contracts on 13-week minimum, with 10 percent discount for 12-month contracts.

TeleMation further states that the advertising rates vary from system to system, and by way of illustration attaches the rate cards of systems in Peru, Ill., and Gallup, N. Mex.[32]

[32] The Peru rate card is as follows:

Announcements		Per week				
		1	5	10	20	50
Class I (5 p.m. to 12 p.m.)	60 seconds	$12.00	$9.60	$8.40	$7.80	$7.20
	30 seconds	9.00	7.20	6.30	5.85	5.40
Class II (9 a.m. to 5 p.m.)	60 seconds	9.60	7.68	6.72	6.24	5.76
	30 seconds	7.20	5.80	5.04	4.68	4.32

Local programing		Number of times			
		1	13	26	52
Class I (5 p.m. to 12 p.m.)	Hour	$75.00	$64.75	$60.00	$56.25
	½ hour	45.00	38.25	36.00	33.75
	¼ hour	35.00	29.75	28.00	26.75
	10 minutes	25.00	22.25	20.00	18.75
	5 minutes	15.00	12.75	12.00	11.25
Class II (9 a.m. to 5 p.m.)	Hour	60.00	51.00	48.00	45.00
	½ hour	36.00	31.60	28.80	27.00
	¼ hour	28.00	23.80	22.40	21.00
	10 minutes	20.00	17.00	16.00	15.00
	5 minutes	12.60	10.20	9.60	9.00

Note costs video tape advertisement production to be charged to advertisers. Above rates based on normal programing costs.

36. While advertising rates vary considerably among television and radio stations, it appears to us that existing CATV rates are much more analogous to typical radio rates than they are to those of television stations generally, or UHF independents in particular. It would seem to follow that CATV advertising on comparatively small systems poses a greater possibly of adverse impact on the revenues of radio stations than on those of television stations. This situation obviously could change with the advent of larger systems in larger communities. For the present, we do not think that there is any threat to broadcast service to the public of sufficient immediacy to warrent a general prohibition on CATV advertising, or to outweigh the considerations discussed above (paragraph 31; see also our action below limiting such CATV advertising to natural breaks). However, we will examine documented claims of imminent adverse impact on the public's free broadcast service on a case-by-case basis, and take such action as may be warranted.

37. In paragraph 17 of the notice the Commission requested comment on the alternative of permitting CATV advertising only at natural breaks without interruption of program continuity.[33] Tele-Mation states that it would not oppose reasonable regulations upon the placement of commercials. The Pennsylvania Community Antenna Television Association reports that some of its members have expressed the opinion that the so-called "magazine format" might be more effective than interspersing commercials throughout the program material. Individual CATV operators contemplating origination have indicated similar views to us upon occasion. Those parties opposed claim principally that the Commission has no authority to regulate the placement of commercials, and, in any event, should treat broadcasters and CATV systems alike insofar as advertising is concerned.

38. We are not persuaded by the equal treatment argument. One service depends solely on advertising revenue, whereas the other has available subscriber fees as well. Moreover, since CATV origination has its base in the carriage of broadcast signals, the Commission has both the power and the responsibility to see to it that such hybrid operations do not undercut, but rather promote, our regulatory policies in the broadcasting field, in this instance the policy of encouraging new and diversified service to the public without impairment of other existing service. We believe that a rule requiring the placement of advertising at natural breaks in CATV originated material will best further this objective and would serve the public interest. For: (1) it would permit CATV to derive additional revenue to help defray the costs of origination;[34] (2) it would provide the public with a new type of service—one where commercials did not interrupt program material at the whim of the

[33] By natural intermissions or breaks, we mean at the beginning or end of a particular originated program, or at any intermission in the program material which is beyond the control of the cable operator; such as time-out in a sporting event, an intermission in a concert or dramatic performance, a recess in a city council meeting, or an intermission in a long motion picture which was present at the time of theatre exhibition, etc.

[34] We will consider in the further proceedings the question of whether advertising should be permitted in connection with automated services if the system does not engage in cablecasting as defined herein, and whether some different provision should be made for advertising, if any, in connection with services of this nature.

cablecaster; (3) it would afford advertisers a new and different type of outlet in terms of size and selectivity of audience, as compared to radio and television stations and printed media; and (4) it would be less apt to affect the advertising revenue available to local broadcast services to the same degree that the alternative of unlimited CATV commercials might. We conclude that the rule adopted herein (see § 74.1117 below) is reasonably ancilliary to the effective performance of our responsibilities for the regulation of broadcasting, and is within the Commission's statutory and constitutional authority. United States v. Southwestern Cable Co., 392 U.S. 157; Midwest Television, Inc., 13 FCC 2d 478, 504–505; 15 FCC 2d 84, 91; see also discussion, infra., pages 28–32.[35]

B. EQUAL TIME, SPONSORSHIP IDENTIFICATION, FAIRNESS

39. In paragraphs 19–20 of the notice, the Commission proposed to adopt rules conditioning the carriage of broadcast signals by CATV systems engaged in program origination upon a requirement that such origination be conducted in accordance with the following conditions:

(a) A rule condition analogous to section 315 of the Communications Act and § 73.657 of the Commission's rules concerning broadcasts by candidates for public office;

(b) A rule condition analogous to section 317 of the Communications Act and §73.654 of the Commission's rules concerning announcement of sponsored programs; and

(c) A rule condition analogous to the obligation referred to in section 315(a) of the Communications Act and the rules promulgated thereunder, to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

In view of our determination not to prohibit, but rather encourage, CATV origination, and to permit advertising, we have decided to adopt the rules set forth below with respect to equal time, fairness, and sponsorship identification. We believe that these requirements are necessary in the public interest for origination conducted in conjunction with carriage of broadcast signals. See paragraphs 40–47 below.

40. Despite some challenge to our jurisdiction to impose any requirements on CATV origination, there was general unanimity in the comments that, if origination is to be permitted, it would be desirable in the public interest for CATV to afford equal time to political candidates and reasonable opportunity for discussion of conflicting views on issues of public importance, and to identify sponsors. Most of the comments on behalf of CATV interests indicated that they would have no objection to conducting their origination in this manner, and most broadcaster comments urged that they should be required to do so, assuming Commission jurisdiction. The comments of independent entities, such as the American Civil Liberties Union and the city of New York, also were in favor of equal time and fairness requirements. We think there is no real question but that CATV origination in conjunction with the carriage of broadcast signals should comport with these cardinal policies of the Communications Act, which are so important to the American political system and an informed electorate. Red Lion Broadcasting Co., Inc. v. Federal Communications Commission, 395 U.S. 367. We shall therefore turn to the basis for our conclusion that we have jurisdiction to adopt the appended rules, which provide that no CATV system shall carry any broadcast signal if the system engages in cablecasting unless such cablecasting is conducted in accordance with equal time, fairness, and sponsorship identification requirements patterned after those applicable to broadcasters.[36]

41. The contention that the Commission lacks authority under the Communications Act and the First Amendment to condition CATV's carriage of broadcast signals upon reasonable regulations going to CATV program origination, was rejected in Midwest Television, Inc., 13 FCC 2d 478, 504–505, and in our opinion denying reconsideration, 15 FCC 2d 84, 91, on grounds which are equally pertinent here. Moreover, the rules set forth below come within the jurisdictional standard set forth by the Supreme Court in the Southwestern case supra. It is clearly necessary to the effective performance of our responsibilities for the regulation of television broadcasting that we require CATV systems engaged in program origination to abide by the same equal time and fairness requirements applicable to broadcasters. The Commission's responsibility for carrying out the provisions of section 315 of the Communications Act (section 315(c)) would be largely thwarted if unequal opportunities were afforded on CATV origination channels. For example, the CATV subscriber might tune his television set to Channel 2, a broadcast channel granting equal time to candidates A and B, and then switch to Channel 3, a CATV origination channel presenting only candidate A. Conceivably, the broadcaster might afford candidates A and B one-half hour each on one day on Channel 2, and the CATV operator might present only candidate A for several hours for a number of days on Channel 3. Or, following the one-half hour appearances of candidates A and B on broadcast Channel 2, the CATV operator might present only candidate A for the next 3 hours on the same channel in place of broadcast program material deleted pursuant to the Commission's nonduplication rules (§ 74.1103 (e) and (f)). See footnote 26 of the Midwest decision supra.

42. Similarly, the requirement that broadcasters present both sides of controversial issues of public importance—an obligation inherent in the public interest standard and properly imposed on broadcasters by the Commission to implement congressional policy (Red Lion Broadcasting Co., Inc. v. Federal Communications Commission, 395 U.S. 367, 379–386), would be grossly circumvented if the CATV subscriber receives both sides when he tunes his television set to a broadcast channel at a time when broadcast program material is being presented but only one side when he switches to a CATV origination channel or stays tuned to the broadcast channel at a time when CATV origination has been substituted for deleted broadcast material.

43. We think that similar considerations necessitate CATV compliance with the legislative policy reflected in section 317 of the Communications Act, which recognizes that sponsorship identification is essential to an informed public. Here, again, our rules requiring such announcements by broadcasters would be substantially undercut if CATV originated material presented in conjunction with broadcast signals failed to reveal that the CATV operator had received money, service or other valuable consideration for presenting such material (e.g., a controversial issue program without divulgence of the entity seeking to persuade the public).

44. We could not, consistent with our statutory responsibilities, permit a CATV operator to place broadcast signals in a setting of inequality, unfairness, and hidden sponsorship which would destroy the signals' integrity and defeat the purposes of the obligations imposed on broadcasters in the public interest.[37] Our statutory authority over interstate communication by wire or radio necessarily encompasses power to prohibit CATV systems from carrying broadcast signals in conjunction with CATV origination

[35] Grosjean v. American Press Co., 297 U.S. 233, and New York Times Co. v. Sullivan, 376 U.S. 254, 266, upon which several parties rely, are distinguishable. A regulation as to the placement of CATV commercials, for the reasons set forth above, is not comparable to a "deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees," which the Supreme Court found bad in Grosjean. Nor does our regulation in any way go to the content of the commercials, or infringe upon the protection accorded to editorial advertising under the First Amendment, as reflected in the New York Times Co. case.

[36] The rules adopted herein are in some respects simpler than those governing broadcasters. Should they prove inadequate, the Commission can, of course, take appropriate rule making action to modify or supplement these rules in light of experience.

[37] We wish to make clear that we do not impute such undesirable practices to the cable industry. Indeed, to the best of our knowledge, the systems which originate programming have attempted to treat political candidates and controversial issues fairly.

that does not afford equal time to political candidates or present both sides of controversial issues of public importance or reveal program sponsorship. The CATV operator may conduct his origination in such fashion if he chooses to do so on a system carrying no broadcast signals. But we cannot permit the carriage of broadcast signals under circumstances so patently contrary to the public interest. We conclude that statutory authority for adoption of the rules below is contained in sections 2, 3, 4(i), 301, 303, 307, 308, 309, 315, and 317 of the Communications Act. Cf. Wrather-Alvarez Broadcasting, Inc. v. Federal Communications Commission, 248 F. 2d 646 (C.A.D.C., 1957).

45. We believe that for the reasons developed (supra, pp. 41–44) our action in this respect is "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting" (United States v. Southwestern Cable Co., supra, at p. 178). We would also note that Southwestern emphasized the breadth of the Commission's regulatory power:

> The Act's provisions are explicitly applicable to "all interstate and foreign communication by wire or radio * * *." 47 U.S.C. § 152(a). The Commission's responsibilities are no more narrow: it is required to endeavor to "make available * * * to all the people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communication service * * *." 47 U.S.C. § 151. The Commission was expected to serve as the "single Government agency" with "unified jurisdiction" and "regulatory authority over all forms of electrical communication, whether by telephone, telegraph, cable, or radio." It was for this purpose given "broad authority." As this Court emphasized in an earlier case, the Act's terms, purposes and history all indicate that Congress "formulated a unified and comprehensive regulatory system for the industry." F.C.C. v. Pottsville Broadcasting Co., 309 U.S. 134, 137 (footnotes omitted) id. 167–168.

Elsewhere the decision states (id. 172–173):

> Certainly Congress could not in 1934 have foreseen the development of community antenna television systems, but it seems to us that it was precisely because Congress wishes "to maintain, through appropriate administrative control a grip on the dynamic aspects of radio transmission," F.C.C. v. Pottsville Broadcasting Co., supra, 309 U.S. at 138, 60 S. Ct. at 439, that it conferred upon the Commission a "unified jurisdiction" and "broad authority." Thus "[u]nderlying the whole [Communications Act] is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust itself to these factors." F.C.C. v. Pottsville Broadcasting Co., supra, at 138. Congress in 1934 acted in a field that was demonstrably "both new and dynamic," and it therefore gave the Commission "a comprehensive mandate," with "not niggardly but expansive powers." National Broadcasting Co. v. United States, 319 U.S. 190, 219. We have found no reason to believe that § 152 does not, as its terms suggest, confer regulatory authority over "all interstate * * * communication by wire or radio." (Footnotes omitted.)

46. Assuming statutory authority, we think that the claim of First Amendment abridgment is clearly without merit. As stated in Midwest, supra, no one has a First Amendment right to provide broadcast signals to the public in a manner contrary to the public interest (15 FCC 2d at 91). Nor does the circumstance that CATV program origination may be economically dependent upon carriage of broadcast signals give rise to an indirect infringement of First Amendment rights. Since CATV systems use broadcast signals as the backbone of the service they provide, they come within the regulation of this agency, if reasonably related to the public interest. If the regulation is so related, it is not barred by the First Amendment (see above discussion; NBC v. U.S., 319 U.S. 190).[28] The above regulations are clearly reasonably related to the public interest. Far from being inconsistent with the First Amendment—which is of course one of the most crucial aspects of the public interest—the regulations promote the purposes of the First Amendment. As the Supreme Court stated in Red Lion, supra, 395 U.S. at 390:

> It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee. Associated Press v. United States, 326 U.S. 1, 20 (1945); New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964); Abrams v. United States, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting). "[S]peech concerning public affairs is more than self-expression; it is the essence of self-government." Garrison v. Louisiana, 379 U.S. 64, 74–75 (1964). See Brennan, The Supreme Court and the Meiklejohn Interpretation of the First Amendment, 79 Harv. L. Rev. 1 (1965). It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC.

47. In holding that the equal time and fairness requirements on broadcasters are consistent with the purposes of the First Amendment the Court gave reasons which also seem equally applicable to origination by a CATV operator (395 U.S. at 392):

> Nor can we say that it is inconsistent with the First Amendment goal of producing an informed public capable of conducting its own affairs to require a broadcaster to permit answers to personnel attacks occurring in the course of discussing controversial issues, or to require that the political opponents of those endorsed by the station be given a chance to communicate with the public. [Footnote omitted.] Otherwise, station owners and a few networks would have unfettered power to make time available only to the highest bidders, to communicate only their own views on public issues, people and candidates, and to permit on the air only those with whom they agreed. There is no sanctuary in the First Amendment for unlimited private censorship operating in a medium not open to all. "Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private interests." Associated Press v. U.S., 326 U.S. 1, 20 (1944).

We see no indirect infringement of First Amendment rights in the rules adopted herein.

48. In light of the foregoing, we conclude that the public interest would be served by adoption of the rules set forth in the appendix hereto, effective 30 days from publication of this order in the FEDERAL REGISTER. Upon such entry in force, we point out that State or local regulations or conditions inconsistent with these Federal regulatory policies are, we believe, preempted. See Head v. New Mexico, 374 U.S. 424 (1963).[29] Authority for such rules is contained in sections 2, 3, 4 (i) and (j), 301, 303, 307, 308, 309, 315, and 317 of the Communications Act. We further conclude that a final determination on the other aspects of the proposed rule making discussed herein should be the subject of a further report and order.

49. *Accordingly, it is ordered*, That the rules set forth below are adopted, effective December 1, 1969, and the Commission retains full jurisdiction over all other aspects of this proceeding.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 Stat. as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 315, 317)

Adopted: October 24, 1969.

Released: October 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[30]
[SEAL] BEN F. WAPLE,
Secretary.

Part 74, Subpart K, is amended as follows:

1. In § 74.1101, new paragraphs (j) and (k) are added as follows:

§ 74.1101 Definitions.

* * * * *

(j) *Cablecasting.* The term "cablecasting" means programing distributed on a CATV system which has been originated by the CATV operator or by another entity, exclusive of broadcast signals carried on the system.

---

[28] It is thus immaterial that the scarcity of frequencies rationale underlying First Amendment rulings in the broadcast field does not apply directly to the cable technology. In view of the above analysis, it is also unnecessary to reach the question of economic scarcity (see Red Lion, supra, 395 U.S. at footnote 28). We do note the CATV operator's monopoly control over cable channels of communication to the home—i.e., that cable television's operations have developed on a noncompetitive, monopolistic basis in the particular areas served, with no instance, to our knowledge, where a member of the public subscribes to more than one cable television service.

[29] Compare paragraphs 21–22, 26, of the December 13 notice herein. In other words, we think that States and localities should remain free to impose additional affirmative obligations on CATV systems, so long as they refrain from imposing restrictions which are inconsistent with the Federal regulatory policies.

[30] Statements of Commissioners Bartley and Robert E. Lee filed as part of orignial document.

(k) *Legally qualified candidate.* The term "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State, or National, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot, or

(2) Is eligible under the applicable law to be voted for by sticker, by writing his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office.

2. A new § 74.1111 is added to read as follows:

§ 74.1111 Cablecasting in conjunction with carriage of broadcast signals.

(a) Effective on and after January 1, 1971, no CATV system having 3,500 or more subscribers shall carry the signal of any television broadcast station unless the system also operates to a significant extent as a local outlet by cablecasting and has available facilities for local production and presentation of programs other than automated services.

(b) No CATV system shall carry the signal of any television broadcast station if the system engages in cablecasting, either voluntarily or pursuant to paragraph (a) of this section, unless such cablecasting is conducted in accordance with the provisions of §§ 74.1113, 74.1115, 74.1117, and 74.1119.

3. A new § 74.1113 is added to read as follows:

§ 74.1113 Cablecasts by candidates for public office.

(a) *General requirements.* If a CATV system shall permit any legally qualified candidate for public office to use its cablecasting facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities: *Provided,* That such system shall have no power of censorship over the material cablecast by any such candidate: *And provided further,* That an appearance by a legally qualified candidate on any:

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of the facilities of the system within the meaning of this paragraph.

NOTE: The fairness doctrine is applicable to these exempt categories. See § 74.1115.

(b) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform, shall not be rebated by any means direct or indirect, and shall not exceed the charges made for comparable use of such facilities for other purposes.

(2) In making facilities available to candidates for public office no CATV system shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any CATV system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

(c) *Records, inspections.* Every CATV system shall keep and permit public inspection of a complete record of all requests for cablecasting time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. Such records shall be retained for a period of 2 years.

(d) *Time of request.* A request for equal opportunities must be submitted to the CATV system within 1 week of the day on which the prior use occurred.

(e) *Burden of proof.* A candidate requesting such equal opportunities of the CATV system, or complaining of noncompliance to the Commission, shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

4. A new § 74.1115 is added to read as follows:

§ 74.1115 Fairness Doctrine; personal attacks; political editorials.

(a) A CATV system engaging in cablecasting shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

NOTE: See public notice: Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 29 F.R. 10415.

(b) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the CATV system shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time, and identification of the cablecast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the system's facilities.

(c) The provisions of paragraph (b) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (b) of this section shall be applicable to editorials of the licensee).

(d) Where a CATV system, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the system shall, within 24 hours after the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial (*a*) notification of the date, time, and channel of the editorial; (*b*) a script or tape of the editorial; and (*c*) an offer of a reasonable opportunity for a candidate or a spokesman of the candidate to respond over the system's facilities; *Provided, however,* That where such editorials are cablecast within 72 hours prior to the day of the election, the systems shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

5. A new § 74.1117 is added to read as follows:

§ 74.1117 Advertising.

A CATV system engaged in cablecasting may present advertising material at the beginning and conclusion of each cablecast program and at natural intermissions or breaks within a cablecast, *Provided,* That the system itself does not interrupt the presentation of program material in order to intersperse advertising: *And provided, further,* That advertising material is not presented on or in connection with cablecasting in any other manner.

NOTE: The term "natural intermissions or breaks within a cablecast" means any natural intermission in the program material which is beyond the control of the CATV operator, such as time-out in a sporting event, an intermission in a concert or dramatic performance, a recess in a city council meeting, an intermission in a long motion picture which was present at the time of theatre exhibition, etc.

6. A new § 74.1119 is added to read as follows:

§ 74.1119 Sponsorship identification.

(a) When a CATV system engaged in cablecasting presents any matter for which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, such system, the system shall make an announcement that such matter is sponsored, paid for, or furnished,

either in whole or in part, and by whom or on whose behalf such consideration was supplied; *Provided, however*, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a cablecast unless it is so furnished for consideration for an identification in a cablecast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the cablecast.

(b) Each system engaged in cablecasting shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program matter for cablecasting, information to enable it to make the announcement required by this section.

(c) In the case of any political program or any program involving the discussion of public controversial issues for which any films, records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a CATV system as an inducement to the cablecasting of such program, an announcement to this effect shall be made at the beginning and conclusion of such program: *Provided, however*, That only one such announcement need be made in the case of any such program of 5 minutes' duration or less, either at the beginning or conclusion of the program.

(d) The announcements required by this section are waived with respect to feature motion picture films produced initially and primarily for theatre exhibition.

[F.R. Doc. 69-12938; Filed, Oct. 30, 1969; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Buffalo Lake National Wildlife Refuge, Tex.

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

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

TEXAS

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Buffalo Lake National Wildlife Refuge, Tex., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,358 acres, are delineated on maps available at refuge headquarters, Umbarger, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The open season for sport fishing on the refuge extends from April 1, through October 31, 1970, inclusive, on all waters of the Buffalo Lake National Wildlife Refuge; and November 1, through December 31, 1970, inclusive, on all waters lying north of a diagonal line extending across the lake from the northwest corner of section 116 to the southeast corner of section 117.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1970.

PAUL E. FERGUSON,
Refuge Manager, Buffalo Lake National Wildlife Refuge, Umbarger, Tex.

OCTOBER 23, 1969.

[F.R. Doc. 69-12993; Filed, Oct. 30, 1969; 8:46 a.m.]

Proposed Rule Making

CIVIL AERONAUTICS BOARD

[14 CFR 218]

[Docket No. 21080; EDR-166C]

LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSON OF AIRCRAFT WITH CREW

Supplemental Notice of Proposed Rule Making

OCTOBER 28, 1969.

The Board, by circulation of EDR-166, dated June 13, 1969, and by publication at 34 F.R. 9621, gave notice that it had under consideration adoption of a new Part 218. This regulation would apply to foreign air carriers and other persons not citizens of the United States who, as lessors, enter into so-called "wet leases" providing for the furnishing of aircraft and crew for the performance of foreign air transportation services of another foreign air carrier. Interested persons were invited to participate in the proceeding through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, to the Docket Section of the Board on or before July 21, 1969. The time for submitting comments was extended by EDR-166A, dated July 3, 1969, and EDR-166B, dated September 26, 1969, to November 3, 1969.

The directors general of 15 European countries have requested a further extension to give them sufficient time to become informed about the background of the proposed rule. Pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20 (d)), the undersigned hereby extends the time for submitting comments to December 15, 1969.

All relevant communications received on or before December 15, 1969, will be considered by the Board before taking action on the proposed rules. Copies of these communications will be available for examination in the Docket Station, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Rates Division.

[F.R. Doc. 69-13019; Filed, Oct. 30, 1969; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 103]

[Docket No. 9938; Notice No. 69-48]

TRANSPORTATION OF HAZARDOUS MATERIALS

Reports of Hazardous Materials Incidents

Correction

In F.R. Doc. 69-12875 appearing at page 17449 in the issue for Wednesday, October 29, 1969, the signature should read "Sam Schneider, *For the Administrator, Federal Aviation Administration.*"

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ALBERT JOSEPH NEHRING

Notice of Granting of Relief

Notice is hereby given that Albert Joseph Nehring, 509 West Park Street, Marshfield, Wis., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 15, 1935, in the U.S. District Court for the Western District of Wisconsin, of an offense punishable by imprisonment for a term exceeding 1 year, as defined in 18 U.S.C. 921(a)(20). Unless relief is granted, it will be unlawful for Albert Joseph Nehring, because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C., Appendix) it would be unlawful for Mr. Nehring to receive, possess, or transport in commerce or affecting commerce a firearm. Notice is hereby further given that I have considered Albert Joseph Nehring's application and have found:

(1) The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Albert Joseph Nehring from disabilities incurred by reason of his conviction would not be contrary to the public interest.

It is ordered, Pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by the regulations in Title 26, Part 178, Code of Federal Regulations, that Albert Joseph Nehring be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 24th day of October, 1969.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 69-13017; Filed, Oct. 30, 1969; 8:48 a.m.]

EVERETT JOHNS, JR.

Notice of Granting of Relief

Notice is hereby given that Everett Johns, Jr., Glen St. Mary, Fla., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment or possession of firearms incurred by reason of his conviction on September 26, 1955, in the U.S. District Court for the Southern District of Georgia, of an offense punishable by imprisonment for a term exceeding one year, as defined in 18 U.S.C. 921(a)(20). Unless relief is granted, it will be unlawful for Everett Johns, Jr., because of such conviction to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that chapter as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C., Appendix) it would be unlawful for Mr. Johns to receive, possess, or transport in commerce or affecting commerce a firearm. Notice is hereby further given that I have considered Everett Johns, Jr.'s application and have found:

(1) The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to Everett Johns, Jr., from disabilities incurred by reason of his conviction would not be contrary to the public interest.

It is ordered, Pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by the regulations in title 26, Part 178, Code of Federal Regulations, that Everett Johns, Jr., be, and he hereby is granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 27th day of October 1969.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 69-13018; Filed, Oct. 30, 1969; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF DISTRIBUTORS STOCKS OF CANNED FOODS

Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct its usual annual survey of inventories covering 21 canned and bottled products, including vegetables, fruits, juices, and fish as of December 31, 1969, under the provisions of title 13, United States Code, sections 181, 224, and 225. This survey, together with the previous surveys, provides the only continuing source of information on stocks of the specified canned foods held by wholesalers and in warehouses of retail multiunit organizations.

On the basis of information received by the Bureau of the Census, these data will have significant application to the needs of the public, industry and the distributive trades, and governmental agencies and are not publicly available from nongovernmental or other governmental sources.

Such survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census

within 30 days after the date of this publication and will receive consideration.

Dated: October 21, 1969.

GEORGE H. BROWN,
Director, Bureau of the Census.

[F.R. Doc. 69-12992; Filed, Oct. 30, 1969; 8:46 a.m.]

Business and Defense Services Administration

JERSEY CITY STATE COLLEGE 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.

Docket No. 70-00118-33-46040. Applicant: Jersey City State College, 2039 Kennedy Boulevard, Jersey City, N.J. 07305. Article: Electron microscope, Model JEM-T7. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in a course on electron microscopy. The course will be offered to students in all science departments to gain knowledge in basic electron optics and techniques of electron microscopy. Application received by Commissioner of Customs: August 13, 1969.

Docket No. 70-00199-01-77030. Applicant: New Haven College, 300 Orange Avenue, West Haven, Conn. 06505. Article: Nuclear magnetic resonance spectrometer, Model JNM-C-60H and attachments. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used for the following studies:

a. Study of the chemical nature of the nucleus and the spatial position of neighboring nuclei.

b. Low temperature studies of various organic compounds.

c. Study of intermolecular interactions and their relationship to chemical shifts and spin-spin coupling.

d. Spin decoupling by field sweep spin decoupling or frequency sweep decoupling may be used to study more complicated spectra.

e. Study of the electronic structure of molecules and the theory of spin-spin coupling, requiring the determination of the relative signs of coupling constants.

f. The high-temperature study of polymer solutions.

g. Instructional use in connection with Analytical Chemistry and/or Instrumental Analysis, Organic Chemistry and Physics Laboratory courses.

h. The study of other nuclei such as F^{19} and C^{13} at some future date.

Application received by Commissioner of Customs: September 22, 1969.

Docket No. 70-00198-00-77030. Applicant: San Jose State College, 145 South Seventh Street, San Jose, Calif. 95114. Article: Accessories for a NMR spectrometer, Model JNM-C-60HL. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in conjunction with an existing nuclear magnetic resonance spectrometer, Model JNM-C-60HL by students in chemistry courses 106 (Instrumental Analysis), 146 (Inorganic Chemistry Laboratory), 171 (Physical Chemistry Laboratory), 180 (Special Problems), and 298 (Research). Application received by Commissioner of Customs: September 19, 1969.

Docket No. 70-00200-01-70700. Applicant: University of Wisconsin, 750 University Avenue, Madison, Wis. 53706. Article: Ultraviolet recorder, Type SE.-3006/S with matched galvanometers. Manufacturer: S. E. Laboratories (Engineering) Ltd., United Kingdom. Intended use article: The article will be used to measure oscillatory data obtained with a Weissenberg rheogoniometer already at hand. Frequency responses and phase shifts of viscoelastic materials up to 60 cycles per second will be studied. This work requires a recorder capable of reading the high frequency end of the spectrum with extreme accuracy. Application received by Commissioner of Customs: September 22, 1969.

Docket No. 70-00202-00-72000. Applicant: University of Houston, 3800 Cullen Boulevard, Houston, Tex. 77004. Article: Low temperature insulated chamber for a Weissenberg rheogoniometer. Manufacturer: Sangamo Controls Ltd., United Kingdom. Intended use of article: The article will be used as a constant temperature jacket around the measuring elements of an existing Weissenberg rheogoniometer in connection with undergraduate and graduate laboratory work with Non-Newtonian Fluids. Application received by Commissioner of Customs: September 22, 1969.

Docket No. 70-00203-33-46040. Applicant: Marquette School of Medicine, Inc., 561 North 15th Street, Milwaukee, Wis. 53233. Article: Ultramicrotome, Model LKB 8800A, Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used primarily for cutting ultrathin sections of cornea for electron microscopic examination. Corneal tissue is composed of dense collagenous stroma covered on one surface by four or five layers of epithelial cells and on the other by a single layer of mesothelial cells. Serial sections of extremely thin sections are required of complete cross-sections of this heterogenous tissue and can only be produced with the article because of its wide range of cutting speeds and size of block that can be sectioned. Application received by Commissioner of Customs: September 22, 1969.

Docket No. 70-00204-00-11000. Applicant: University of Pittsburgh, Central Receiving Department, Terrace and De Soto Streets, Pittsburgh, Pa. 15213. Article: Mass marker, Model LKB 9010. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used as a component to an existing gas chromatography-mass spectrometry system for educational purposes. Application received by Commissioner of Customs: September 22, 1969.

Docket No. 70-00188-65-43000. Applicant: U.S. Department of Commerce, Environmental Science Service Administration, 6010 Executive Boulevard, Rockville, Md. 20852. Article: Magnetometer, Type 592. Manufacturer: Littlemore Scientific Engineering Co., United Kingdom. Intended use of article: The article will be used for measurement of magnetic field variations during marine surveys linked with the marine survey (Norton Sound) beginning this spring. The article will be packaged with telemetering and other equipment on an ocean buoy. Application received by Commissioner of Customs: September 15, 1969.

Docket No. 70-00205-33-46040. Applicant: Presbyterian-St. Luke's Hospital, 1753 West Congress Parkway, Chicago, Ill. 60612. Article: Electron Microscope, Model EM-300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for medical research concerning the molecular structure of normal and abnormal cells and intercellular materials. Application received by Commissioner of Customs: September 23, 1969.

Docket No. 70-00206-33-46040. Applicant: St. Joseph's and Our Lady of Fatima, 21 Peace Street, Providence, R.I. 02907. Article: Electron microscope, Model EM-300. Intended use of article: The article will be used both for diagnosis at the ultrastructural level in human pathologic material and for research. In general the research will be strictly oriented toward human pathology. Experiments with animals are only contemplated as side line of investigation, particularly in the field of arteriosclerosis. Anticipated are electron microscopic examinations of a variety of preparations ranging from routine Epon embedded sections of human pathologic material to preparations containing submicronic cellular fractions and macromolecular components. Application received by Commissioner of Customs: September 24, 1969.

Docket No. 70-00207-33-46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron Microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for biological research. The materials to be investigated involves pure preparations of protein molecules and extremely thin sections of tissues, bacteria, and viruses. These studies involve identifications of molecules from their staining patterns, and the precision by which identification can occur depends on how detailed information the electron microscopic pictures contain. Application received by Commissioner of Customs: September 25, 1969.

Docket No. 70-00208-89-43000. Applicant: University of Missouri—Rolla, General Services Building, Purchasing Department, Rolla, Mo. 65401. Article: Two portable magnetometers, Type ES-180. Manufacturer: Edgar Sharpe Associates, Ltd., Canada. Intended use of article: The article will be used for the following courses of instruction:

(a) Mining 285. "Introduction to Geophysical Engineering."
(b) Mining 386. "Gravitational and Magnetic Engineering."
(c) Mining 490. Research.

Often a graduate student elects to conduct a field problem involving the geophysical interpretation of a magnetic survey. The instrument will allow a rapid reconnaissance to be made in order to delineate areas for a later more detailed study with a more sensitive instrument. Application received by Commissioner of Customs: September 25, 1969.

Docket No. 70-00209-50-70000. Applicant: Geophysical Institute, University of Alaska, College, Alaska 99701. Article: Radiometer for short and long wave length, Type Davos PD 4. Manufacturer: Physikalisch-Meteorologisches Observatorium, Switzerland. Intended use of article: The article will be used for the McCall Glacier project to measure the albedo of different surfaces, and to measure the albedo changes of the snow during the season in different altitudes. Furthermore, the long wave outgoing radiation of different surfaces can be measured. Application received by Commissioner of Customs: September 25, 1969.

Docket No. 70-00210-33-46040. Applicant: University of Pennsylvania, Department of Medicine, 220 Maloney Building, 3600 Spruce Street, Philadelphia, Pa. 19104. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used in conjunction with the following projects now in progress:

(a) Study of the vasculature of the lung and other tissues under different disease processes and experimental situations.
(b) Studies of fine structure of myocardium in normal state and in disease.
(c) Ultrastructural identification and control of purity of cell fractions of normal and hypertrophic myocardium.

Application received by Commissioner of Customs: September 25, 1969.

Docket No. 70-00211-01-77030. Applicant: University of Rochester, River Campus Station, Rochester, N.Y. 14627. Article: Nuclear magnetic resonance spectrometer, Model JNM-4H-100. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used for fundamental research and for teaching graduate and undergraduate students. The basic purposes for which the article is intended are: (1) To measure the high resolution spectra of compounds containing ^1H and ^{19}F nuclei at a magnetic field of 23,490 gauss; (2) to measure wideline and semi-wideline spectra at 23,490 gauss; (3) to measure the spectra of other nuclei at 23,490 gauss. Application received by Commissioner of Customs: September 25, 1969.

Docket No. 70-00212-01-77030. Applicant: San Fernando Valley State College, 18111 Nordhoff Street, Northridge, Calif. 91325. Article: Nuclear magnetic resonance spectrometer, Model R-20 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to instruct students in the principles of nuclear magnetic resonance and the use and operation of NMR spectrometers. The experiments which will be performed include:

(a) Demonstration of nmr phenomena for a number of nuclei involving rapid scanning spectra and quick interchange of RF units;
(b) Employing frequency sweep and narrow sweep widths to determine J-values and line positions to a high degree of accuracy;
(c) Visual presentation of magnetic field curvature and homogeneity;
(d) Visual presentation of nmr phenomena by scanning and integration;
(e) Visual presentation of spin decoupling, spin tickling and saturation phenomena.

Application received by Commissioner of Customs: September 26, 1969.

Docket No. 70-00213-01-77030. Applicant: University of Rochester, River Campus Station, Rochester, N.Y. 14627. Article: Nuclear magnetic resonance spectrometer, Model JNM-C-60HL. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used for instructional and research purposes. It will be operated by technicians and by students, many of the latter relatively inexperienced. Some specific uses are expected to include the following:

1. Instruction and training of undergraduate students in the performance of simple nmr experiments, the elements of nmr experimental techniques and in spectrum interpretation.
2. Routine monitoring of crude reaction mixtures by examining proton or other resonances several times per hour to follow the progress of laboratory experiments such as routine syntheses or transformations of cyclopropylketenes, etc.
3. Precision nmr spectroscopy of selected organic or organometallic compounds, e.g. oxepines and furans, to determine chemical shifts and coupling constants with great accuracy and suitable for theoretical analysis of spectra.
4. Kinetic studies requiring precision temperature control over the widest possible temperature range, as for example rate studies of electrolytic reactions, isotope exchange phenomena, substitution reactions, etc.

Application received by Commissioner of Customs: September 26, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-12980; Filed, Oct. 30, 1969; 8:45 a.m.]

TEMPLE UNIVERSITY MEDICAL SCHOOL 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.

Docket No. 70-00230-33-46040. Applicant: Temple University Medical School, 3400 North Broad Street, Philadelphia, Pa. 19140. Article: Electron microscope, Model EM-101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used for research which includes the following projects:

1. The study of the cross-linkages in the filaments of the pigment synthesizing organelle of the melanocyte.
2. A study which involves the localization of isoproterenol to specific organelles in the cells of the salivary gland.
3. An investigation concerned with the identification of elemental copper in the enzyme tyrosinase.

Application received by Commissioner of Customs: October 3, 1969.

Docket No. 70-00231-33-46040. Applicant: Northeastern Illinois State College, Bryn Mawr and St. Louis Avenues, Chicago, Ill. 60625. Article: Electron microscope, Model JEM-50B. Manufacturer: Japan Electron Optics Laboratory Co. Intended use of article: The article will be used for teaching the following courses: Introduction to Electron Microscopy, Cytology, and Biology of Cells. In

addition, it will be used as a research instrument to screen grids before high resolution microscopy is performed. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00233-00-61800. Applicant: Greenwood School District No. 50, Post Office Box 248, Magnolia Street, Greenwood, S.C. 29646. Article: Hemispherical assembly, Type 16. Manufacturer: Sailcraft Ltd., Canada. Intended use of article: The article will be used in connection with a planetarium ordered by the institution for instructional purposes. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00234-16-61800. Applicant: Greenwood School District No. 50, Post Office Box 248, Magnolia Street, Greenwood, S.C. 29646. Article: Planetarium and auxiliary projectors, Model Apollo. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article which can be manually operated will be used for instruction in the following subjects for the grade levels as indicated:

Grades 1 through 3:
Moon, Planet and Stars.
Elementary Science.
The Big Ocean.
Water Cycles.

Grade 4: *
Earth, Moon and Space.
Causes of weather.
Forecasting.

Grades 5 and 6: *
Earth and Space Navigation.
Matter and Energy.
Earthly Forces.
The Solar System.

Grades 7 through 12: *
Weather.
Earth-Space Relationship.
Navigation.
Astronomy.
Practical Science.
Physics I and II.
Physical Science.

Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00235-33-46500. Applicant: Temple University Medical School, 3400 North Broad Street, Philadelphia, Pa. 19140. Article: Ultramicrotome, Model SIDEAO ("Om U2"). Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used to section single light microscopically pre-selected melanoma cells of approximately 50 angstrom units thickness for electron microscopy. This work is part of research involving the elucidation of melanogenesis of tissue cultures of malignant cells during their cell cycles. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00236-16-61800. Applicant: St. Lawrence Central School, Brasher Falls, New York, N.Y. 13613. Article: Planetariums and auxiliary projectors, Eros Model. Manufacturer: Goto Optical Co., Japan. Intended use of article: The article will be used for instruction in the following subjects for the grade levels indicated:

Grades 1 through 3:*
Moon, Planets and Stars.
Elementary Science.
The Big Ocean.
Water Cycles.

Grade 4:*
Earth, Moon and Space.
Causes of Weather.
Forecasting.

Grades 5 and 6:*
Earth and Space Navigation.
Matter and Energy.
Earthly Forces.
The Solar System.

Grades 7 through 12:*
Weather.
Earth-Space Relationship.
Navigation.
Astronomy.
Practical Science.
Physics I and II.
Physical Science.

Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00237-00-46070. Applicant: Pennsylvania State University, University Park, Pa. 16802. Article: 1 JSM-TS tensile stage, 1 JSM-SHS hot stage for a scanning electron microscope. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in conjunction with an existing scanning electron microscope to study the mechanisms of rock deformation and failure under pressure. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00238-16-61800. Applicant: St. Aloysius High School, 2003 Clay Street, Vicksburg, Miss. 39180. Article: Planetariums and auxiliary projectors, Eros Model. Manufacturer: Goto Optical Co., Japan. Intended use of article: The articles will be used for instruction in Astronomy, Matter and Energy, Causes of Weather, Water Cycles, and other subjects at different grade levels as outlined by the applicant, for student and teacher operation. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00239-16-61800. Applicant: Richmond Public Schools, Department of Special Service, 2907 North Boulevard, Richmond, Va. 23230. Article: Planetariums and auxiliary projectors, Eros Model. Manufacturer: Goto Optical Co., Japan. Intended use of article: The articles will be used for instruction in Astronomy, Matter and Energy, Causes of Weather, Water Cycles, and other subjects at different grade levels as outlined by the applicant, for student and teacher operation. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00240-33-46040. Applicant: University of Miami, Coral Gables, Fla. 33124. Article: Electron microscope, Model EM-300 with anticontamination device. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for various studies of fine structure of biological materials. The major experimental project is concerned primarily with the morphogenesis of several DNA-containing viruses. In particular, the finest structural details of the membranes of the viruses are being examined to determine differences in infectivity in the human and in the tissue culture host cells. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00241-33-43780. Applicant: Emory University, School of Medicine, Atlanta, Ga. 30322. Article: Miscellaneous laboratory apparatus (stainless steel tray for holding 48 incubation tubes with chipped ice, gassing manifold, insulated boiling water bath with hinged top, cold water bath with inlet for tap water and outlet for draining water from bath into sink, incubation bath, stainless steel ice bath to hold 50 ml. beaker with soaking medium, rack for holding 40-place test tube supports containing pyrex test tubes in boiling water and cold water baths.) Intended use of article: The article will be used in connection with mouse hemidiaphragm insulin assay. Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00242-33-46040. Applicant: University of Missouri, Kansas City, 1011 East 51st Street, Kansas City, Mo. 64110. Article: Electron microscope, Model EM-300 and anticontamination device. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for basic research concerning specific projects planned for the next several years. The projects include the following:

1. An electron microscopic study of the infection of cells by certain oncogenic viruses.
2. Studies on salivary glands following hormone treatment.
3. In conjunction with item 2 above, we intend to study enamel and dentin by electron and X-ray diffraction techniques for possible crystal structure differences from caries-susceptible rats versus mineral from control, caries resistant animals.
4. Enzyme structure studies.

Application received by Commissioner of Customs: October 8, 1969.

Docket No. 70-00243-33-46040. Applicant: University of Virginia, Department of Biology, Gilmer Hall, Charlottesville, Va. 22903. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily for the training of graduate students and undergraduates in the uses and manipulation of high resolution instruments. In addition, they will do the early work of their research on this instrument. Finally, much preliminary research work, both of students and of our own will be done on this instrument. Application received by Commissioner of Customs: October 8, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-12981; Filed, Oct. 30, 1969; 8:45 a.m.]

*Subject titles taken from School Syllabus and appropriate text books. These will be supplemented by actual student operation of the instrument as well as teacher operation.

*Subject titles taken from School Syllabus and appropriate text books. These will be supplemented by actual student operation of the instrument as well as teacher operation.

UNIVERSITY OF VIRGINIA 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.

Docket No. 70-00244-33-46040. Applicant: University of Virginia, Department of Biology, Gilmer Hall, Charlottesville, Va. 22903. Article: Electron microscope, Model HU-11E-1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used primarily as a high resolution research instrument. Specific projects in which it will be used will concern high resolution studies on the mitotic apparatus and other systems involved in primitive motility. This requires work both with sections and with negatively stained material. Application received by Commissioner of Customs: October 9, 1969.

Docket No. 70-00245-00-77040. Applicant: Purdue University, Purchasing Department, Lafayette, Ind. 47907. Article: LKB Model 9010 mass marker for a LKB 9000 mass spectrometer. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used as an accessory to an existing LKB 9000 gas chromatograph-mass spectrometer.

Application received by Commissioner of Customs: October 9, 1969.

Docket No. 70-00246-33-46040. Applicant: The University of New Mexico School of Medicine, 915 Stanford Drive NE., Albuquerque, N. Mex. 87106. Article: Electron microscope, Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research for the elucidation of cell fine structure characteristics which may not be related to an enzymatic localization. Materials to be studied include membranes, retina, acinar pancreas, nerves, absorptive cells of the gut, phagocytic cells of the liver, sinusoid and alveolar macrophages in the lung, and other tissues and organs of vertebrates. The overall objective of the investigations is to determine the cytochemical and biophysical orientation which molecules exhibit as they are formed, become differentiated and aggregate into larger and more pronounced entities that reveal an image with which we can identify a functional activity. Application received by Commissioner of Customs: October 9, 1969.

Docket No. 70-00247-33-46040. Applicant: Yale University School of Medicine, Section of Ophthalmology, 1038FMB, 333 Cedar Street, New Haven, Conn. 06510. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used primarily in the observation of biological material after proper fixation and embedding. The projects in which the article will be used includes the following:

a. The localization of ionic precipitates in tissues.

b. The structural modifications of the cornea during swelling and loss of transparency.

c. Localization of diffusible substances of small molecular sizes.

d. General use will include research related to eye physiology and eye pathology as well as in the training of residents in Ophthalmology and graduate and postdoctoral students.

Applications received by Commissioner of Customs: October 9, 1969.

Docket No. 70-00248-33-43420. Applicant: University of Oregon, Department of Psychology, Condon Hall, Eugene, Oreg. 97403. Article: Micromanipulator and accessories. Manufacturer: La Precision Cinematographique, France. Intended use of article: The article will be used for positioning micropipettes and microsurgical tools at calibrated positions within a cubic domain of 1cm.³ for the purpose of recording the electrical activity of single neurons in the brain of small mammals and in the central ganglia of *Aplysia*. Application received by Commissioner of Customs: October 10, 1969.

Docket No. 70-00249-33-46040. Applicant: Institute for Medical Research, Copewood Street, Camden, N.J. 08103. Article: Electron microscope, Model Elmiskop 101 and service kit. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to determine the fine structure of viruses for identifiction purposes. Studies concerning a virus in mouse milk that transmits mammary cancer from mother to daughter is of primary interest. This virus can be tested by inoculating young mice with it and observing the development of tumors. Appliction received by Commissioner of Customs: October 10, 1969.

Docket No. 70-00250-98-26000. Applicant: Commonwealth of Pennsylvania, Cheyney State College, Cheyney, Pa. 19319. Article: Theory of electricity device, Model EG ZA/ZT Ba, Bb. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used in classes of electricity for teaching the basic theory of electricity. This device teaches the student to construct electrical articles by actual practice. Application received by Commissioner of Customs: October 13, 1969.

Docket No. 70-00251-33-46040. Applicant: Florida State University, Tallahassee, Fla. 32306. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for both teaching and research purposes by biologists, chemists, geologists, and metallurgists. Several research programs are under study, such as a study of the electron microscopic structure of the brain centers of *Octopus vulgaris* and other cephalopods and a study of the ultrastructure of the olfactory and taste organs in vertebrates. Application received by Commissioner of Customs: October 14, 1969.

Docket No. 70-00252-00-28200. Applicant: North Carolina State University, Chemistry Department, Withers Hall, Raleigh, N.C. 27607. Article: Superheterodyne adapter, Model JES-SH-30X. Manufacturer: Japan Electron Optics Laboratory, Japan. Intended use of article: The article is an accessory for an electron spin resonance instrument. Application received by Commissioner of Customs: October 14, 1969.

Docket No. 70-00254-33-43780. Applicant: Medical Research Institute of Worcester, Inc., 26 Queen Street, Worcester, Mass. 01610. Article: J. B. Brown partitioning extractor, partition vessels, stainless steel top rack and stoppers. Manufacturer: Paton Industries, Ltd., Australia. Intended use of article: The article will be used for the measurement of estrogens (ovarian hormone) in body fluids. Application received by Commissioner of Customs: October 14, 1969.

Docket No. 70-00255-33-46500. Applicant: University of Connecticut Health Center, Farmington Site, Route 4, Farmington Avenue, Farmington, Conn. 06032. Article: Ultramicrotome, Model "Om U2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used to section material embedded in a variety of embedding media. The major project will concern the ultrastructure nucleoli either in situ or isolated from hepatic parenchymal cells. Application received by Commissioner of Customs: October 14, 1969.

Docket No. 70-00257-16-61800. Applicant: Suffolk County Community College, 533 College Road, Selden, N.Y. 11901. Article: Planetariums, Eros Model. Manufacturer: Goto Optical Manufacturing Co., Japan. Intended use of article: The article will be used for instruction in Astronomy, Matter and Energy, Causes of Weather, Water Cycles, and other subjects at different grade levels as outlined by the applicant, for student and teacher operation. Application received by Commissioner of Customs: October 16, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-12982; Filed, Oct. 30, 1969; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ALUMINUM ASSOCIATION

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP OB2469) has been filed by The Aluminum Association, Foil Division, 420 Lexington Avenue, New York, N.Y. 10017, proposing that § 121.2531 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 121.2531) be amended to provide for the safe use of virgin light petroleum distillates in surface lubricants used in the manufacture of metallic food-contact articles under conditions such that the total residual lubricant does not exceed 0.015 milligram per square inch of food-contact surface. The proposed virgin light petroleum distillates are described as being refined to meet the following specifications:

1. Distillation endpoint below 700° F.
2. Color 5.5 maximum as determined by ASTM Method D 1500.
3. Ultraviolet absorbance limits as follows as determined by the method described in § 121.2589(c)(3):

Wavelength ($m\mu$)	*Maximum absorbance per centimeter optical pathlength*
280–289	0.7
290–299	0.6
300–359	0.4
360–400	0.09

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-12999; Filed, Oct. 30, 1969; 8:46 a.m.]

AMERICAN CYANAMID CO.

Notice of Withdrawal of Petition for Food Additives Chlortetracycline, Penicillin, Sulfamethazine

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

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, has withdrawn its petition (C35–688V), notice of which was published in the FEDERAL REGISTER of June 8, 1968 (33 F.R. 8513), proposing that § 121.208 *Chlortetracycline* be amended to provide for the safe use in swine feed of a combination drug containing chlortetracycline, procaine penicillin, and sulfamethazine in feed for sows and gilts.

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13000; Filed, Oct. 30, 1969; 8:46 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0392) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of tolerances for residues of the insecticide *O,O*-dimethyl-*S*-[2-methoxy-1, 3, 4-thiadiazol-5-(4H)-onyl-(4)-methyl] dithiophosphate and its oxygen analog *O,O*-dimethyl-*S*-[2-methoxy-1, 3, 4-thiadiazol-5-(4H)-onyl-(4)-methyl] phosphorothiolate in or on the raw agricultural commodities: Alfalfa, alfalfa hay, clover, clover hay, grass, and grass hay at 10 parts per million; the citrus fruit group at 6 parts per million; and cottonseed at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide and its oxygen analog is the method of A. M. Mattson et al., published in "Journal of Agricultural and Food Chemistry," vol. 17, pages 565–70 (1969).

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13001; Filed, Oct. 30, 1969; 8:47 a.m.]

STATE OF HAWAII

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0890) has been filed by the State of Hawaii, Department of Agriculture, Honolulu, Hawaii 96814, proposing the establishment of a tolerance (21 CFR Part 120) of 0.1 part per million for residues of phosphine in or on the raw agricultural commodity sugarcane. The residues result from application of the rodenticide zinc phosphide to the growing crop.

The analytical method proposed in the petition for determining residues of phosphine consists of slurrying the sugarcane with sulfuric acid, heating to volatilize the residues, and passing the resultant gases through saturated bromine water to oxidize the phosphine to phosphate. The phosphate is reacted with ammonium molybdate to form a blue color which is measured spectrophotometrically at 820 millimicrons.

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13002; Filed, Oct. 30, 1969; 8:47 a.m.]

[Docket No. FDC-D-121; NDA No. 7-875]

MEDICAL DRUG CORP.

Nurobloc Injection; Withdrawal of Approval of New Drug Application

A notice of opportunity for hearing was published in the FEDERAL REGISTER of March 1, 1969 (34 F.R. 3712), extending to the Medical Drug Corp., and to any interested person who might be adversely affected, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order withdrawing approval under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) of new-drug application No. 7-875 and all amendments and supplements thereto held by the Medical Drug Corp. for the drug Nurobloc Injection for use as a curative in neuritis and rheumatic conditions in humans; and, under section 505(d) (21 U.S.C. 355(d)), to refuse to approve all supplements pending on new-drug application No. 7-875 for Nurobloc Injection.

Neither the applicant nor any interested person who might be adversely affected filed a written appearance of election within the 30 days as provided by said notice. The failure to file such an appearance is construed as an election by such persons not to avail themselves of the opportunity for hearing. Therefore, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052, as amended; 21 U.S.C. 355) and delegated to the Commissioner (21 CFR 2.120):

1. Approval of new-drug application No. 7-875, including all amendments and supplements thereto, is hereby withdrawn on the grounds set forth in said notice, to wit; new information before the Commissioner with respect to such drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling, in that the data available indicate virtually no evidence of effectiveness as a curative in neuritis and rheumatic disorders and under the conditions for which the product is recommended; and the applicant has repeatedly or deliberately failed to make required reports under section 505(j) of the Act (21 U.S.C. 355(j)) and §§ 130.13 and 130.35 (a) and (b) of the new-drug regulations (21 CFR 130.13, 130.35 (a) and (b));

2. All supplements pending on new-drug application No. 7-875 for Nurobloc Injection are hereby refused approval on the grounds set forth in said notice, to wit; there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

This order shall be effective as of publication in the FEDERAL REGISTER.

Dated: October 23, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69-13003; Filed, Oct. 30, 1969; 8:47 a.m.]

NOR-AM AGRICULTURAL PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0889) has been filed by NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, Ill. 60098, proposing the establishment of a tolerance (21 CFR Part 120) of 0.1 part per million for negligible residues of the herbicide phenmedipham (methyl *m*-hydroxycarbanilate *m*-methylcarbanilate) in or on the raw agricultural commodity sugar beets (roots and tops).

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the herbicide is hydrolyzed to 3-methylaniline by treatment with alkali. Bromination in aqueous acid solution yields 2,4,6-tribromo-3-methylaniline which is determined using a gas chromatograph equipped with an electron capture detector.

Dated: October 24, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13004; Filed, Oct. 30, 1969; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 69-119]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR, ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from September 19, 1969 to September 29, 1969 (List No. 26-69). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.4(a)(2) and (g)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR, Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

HATCHETS (LIFEBOAT AND LIFERAFT) FOR MERCHANT VESSELS

Approval No. 160.013/4/0, hatchet steel handle type 1, class 1, design E, style 2, Revere's dwg. C-692-2, manufactured by Revere Supply Co., Inc., 603-607 West 29th Street, New York, N.Y. 10001, effective September 22, 1969.

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/574/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective September 29, 1969. (It supersedes Approval No. 160.047/574/0 dated Sept. 8, 1969, to show change in address of manufacturer.)

Approval No. 160.047/575/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective September 29, 1969. (It supersedes Approval No. 160.047/575/0 dated Sept. 8, 1969, to show change in address of manufacturer.)

Approval No. 160.047/576/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective September 29, 1969. (It supersedes Approval No. 160.047/576/0 dated Sept. 8, 1969, to show change in address of manufacturer.)

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/234/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048(c)(1)(i), manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, Ill. 60607, effective September 29, 1969. (It supersedes Approval No. 160.048/234/0 dated Sept. 8, 1969, to show change in address of manufacturer.)

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/135/0, Type 1551 bronze body pop safety valve, enclosed spring, maximum pressure 300 p.s.i., maximum temperature 450° F., dwg. No. T-6385-H, dated September 20, 1949, approved for 1½" and 2" inlet sizes, manufactured by DRESSER Industrial Valve and Instrument Division, Post Office Box 1430, Alexandria, La. 71301 (formerly Manning, Maxwell, and Moore, Inc.), effective September 19, 1969. (It is an extension of Approval No. 162.001/135/0 dated Nov. 2, 1964, and change of name and address of manufacturer.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/31/1, Type "LT" flame arrester, open atmospheric pattern, semisteel body, copper or aluminum alloy arrester elements, dwg. No. TS-1, revised August 15, 1950, approved for sizes 6", 8", and 10", manufactured by The Staytite Co., 3606-12 Polk Avenue, Houston, Tex. 77003, effective September 24, 1969. (It is an extension of Approval No. 162.016/31/1 dated Oct. 6, 1964.)

Approval No. 162.016/32/1, Type "OST" flame arrester, open atmospheric pattern, semisteel body, copper or aluminum alloy arrester elements, dwg. No. TS-2, revised August 14, 1950, approved for sizes 3" and 4", manufactured by The Staytite Co., 3606-12 Polk Avenue, Houston, Tex. 77003, effective September 24, 1969. (It is an extension of Approval No. 162.016/32/1 dated Oct. 6, 1964.)

HYDRAULIC AND MANUAL RELEASES FOR LIFESAVING EQUIPMENT

Approval No. 160.062/2/0, Model 404 hydraulic and manual release for lifesaving equipment; for buoyant loads of 200 to 3,750 pounds; identified by assembly drawing HH-2-501, revision B dated June 30, 1969, and drawing list dated September 19, 1969, to be used in accordance with installation and pretensioning details shown on tension gripe assembly drawing HH-4-501, revision C dated September 2, 1969, manufactured by Arrow Manufacturing, Inc., 204 West Lawton Street, Post Office Box 226, Edgerton, Wis. 53534, effective September 22, 1969.

Dated: October 23, 1969.

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

[F.R. Doc. 69-12991; Filed, Oct. 30, 1969; 8:46 a.m.]

Federal Aviation Administration

FACILITY RELOCATIONS OCCASIONED BY AIRPORT IMPROVEMENTS OR CHANGES

Statement of Policy

1. *Purpose.* To inform the aviation community of the FAA policy governing responsibility for funding relocation, replacement and modification to air traffic control and air navigation facilities that are made necessary by improvements or changes to the airport. The term "airport owner" used herein refers to the political subdivision, military service, or other authority responsible for airport operations and improvements.

2. *Classes of FAA facilities.* FAA facilities located on airports and subject to the funding policy of this circular, are classified as follows:

a. *Class I.* This class includes the facilities and components that are used exclusively in support of the airport or from which primary benefits are derived by the airport since the facility is located thereon. Examples are:

Remote Transmitter/Receiver (Tower).
Airport Traffic Control Tower.
Airport Surveillance Radar.
Airport Surface Detection Equipment.
Precision Approach Radar.
Instrument Landing System and Components.
Approach Lighting Systems and Components.
Visual Landing Aids.
Direction Finding Equipment.
VOR, TVOR, and VORTAC used for Instrument Approach.
Weather Observing and Measuring Equipment (owned and operated by FAA).
Central Standby Power Plant.

b. *Class II.* This class includes the facilities and components that service a wide area and are located on the airport as a matter of convenience. Examples are:

Long Range Radar.
Air Route Traffic Control Centers.
Peripherals (Remote Control Air-Ground Communication Facility).
VOR and VORTAC (en route only).
Flight Service Station.
Remote Communications Outlet.
Limited Remote Communications Outlet.

3. *Responsibility for funding*—a. *The airport owner.* (1) The airport owner is expected to pay for the relocation, replacement or modification of FAA air traffic control and air navigation facilities or components thereof made necessary by airport improvements or changes, when:

(a) Class I facilities must be relocated, replaced or modified because the airport improvement or change impairs the technical and operational characteristics of the FAA facility.

(b) Class I facilities must be relocated, replaced or modified to permit the extension of runways or construction of new runways and taxiways or other improvements to the existing airport facilities; for example: expansion of parking areas, terminal buildings, and aircraft service areas.

(c) The FAA has a lease, permit, license, or other document covering Class II facilities that gives FAA a legal basis for requesting that the airport owner assume the cost of relocation.

The foregoing are the normal circumstances under which financing responsibility should rest with the airport owner, however circumstances other than the above (or as documented in 3.b. below) will be determined on a case-by-case basis.

(2) Where the airport owner grants other parties the right to construct hangars, other buildings, and/or facilities that impair or interrupt the technical and operational characteristics of air traffic control or navigation facilities, the agency expects the airport owner to pay for the relocation, replacement or modification of these facilities or components thereof. Payment to FAA may be made either from recovery of costs from the other parties or from other sources available to the airport owner.

(3) The need for uninterrupted service from some Class I facilities is recognized. This will require special methods for accomplishing the work in order to avoid interruptions of service. In such cases, funding for provision of temporary facilities required to maintain continuity of service is expected to be the airport owner's responsibility. However, it is FAA policy to avoid modernizing or upgrading a facility at the airport owner's expense.

b. *The FAA.* It is general FAA policy to fund the following:

(1) Relocation into quarters provided by the airport owner when requested by FAA.

(2) Relocation of Class II facilities, located on the airport but the presence is not authorized by a document described in 3.a.(1)(c) above, or the presence on the airport has been assured by unwritten consent of the airport owner.

(3) Relocation because of technical reasons that are inherent in the site and not caused by airport improvements or changes.

(4) Additional cost for modification of the facility when undertaken concurrent with the relocation. For example, upgrading an ILS/ALS from Category I to Category II, or adding Direct Altitude and Identification Readout to ASR, concurrent with relocation.

(5) Relocation of Class I facilities to a new or another existing airport meeting the necessary physical and operational requirements to qualify for Class I facilities, when the receiving airport will replace the airport from which the facilities are being relocated.

(6) Relocation of Class I facilities, upon recognition by FAA of the necessity for a new or newly designated instrument runway on the same airport, in order to achieve more effective use of these facilities, except in the case of a new runway covered by 3.a.(1)(b).

(7) Flight inspection required for relocation of facilities where the airport owner is one of the military services (Friendship Agreement).

c. *Other funding.* In the event that relocations, replacements or modifications of facilities are necessitated due to causes not attributable to either FAA or the airport owner, funding responsibility shall be determined by the FAA on a case-by-case basis.

d. *Exceptions.* Any exceptions to the funding policy described above shall be considered as each instance arises.

4. *Accomplishment of work.*—a. *Responsibility.* FAA shall have exclusive right to determine how all facets of the relocation of an FAA facility will be accomplished. This includes but is not limited to the engineering, site selection, procurement of equipment, construction, installation, testing, flight inspection and recommissioning of the facility.

b. *Reimbursable agreement.* The airport owner and FAA shall negotiate a reimbursable agreement setting forth all essential elements pertinent to the relocation, replacement or modification of an FAA facility. The agreement shall stipulate that in the event actual cost is less than the estimated cost, the sponsor will pay only the actual costs; similarly, if actual cost exceeds FAA estimated cost the sponsor will pay the actual cost.

Issued in Washington, D.C. on October 24, 1969.

JOHN H. SHAFFER,
Administrator.

[F.R. Doc. 69-12985; Filed, Oct. 30, 1969; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-235]

GULF GENERAL ATOMIC INC.

Termination of Facility License

The Atomic Energy Commission has found that the Gulf General Atomic Inc., Fast Critical Assembly located at Torrey Pines Mesa near San Diego, Calif., has been dismantled, decontaminated, and disposition made of component parts in accordance with the regulations of the Commission, 10 CFR, Chapter I, and in a manner not inimical to the common defense and security or to the health and safety of the public. Therefore, pursuant to the September 12, 1969 request by the licensee, Facility License No. R-99 held by Gulf General Atomic Inc., is hereby terminated as of October 22, 1969.

Dated at Bethesda, Md., this 22d day of October 1969.

For the Atomic Energy Commission.

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

[F.R. Doc. 69-13009; Filed, Oct. 30, 1969; 8:47 a.m.]

TRESPASSING ON COMMISSION PROPERTY

Argonne National Laboratory

Notice is hereby given that the Atomic Energy Commission, pursuant to section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR Part 160 published in the FEDERAL REGISTER on August 16, 1963 (28 F.R. 8400), prohibits the unauthorized entry, as provided in 10 CFR 160.3, and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 160.4, into or upon the South Frontage Road and 91st Street Sites of the Argonne National Laboratory of the Atomic Energy Commission, said sites being two tracts of land located in the county of Du Page, State of Illinois, and more particularly described as follows:

1. South Frontage Road Site—a tract of land of approximately 13 acres, surrounded by a 7-foot chainlink perimeter fence, located in the N½ of the NE¼ of section 4, T. 37 N., R. 11 E. of the Third Principal Meridian, in Du Page County, Ill., with its main entrance on South Frontage Road.

2. 91st Street Site—a tract of land of approximately 12 acres, surrounded by a 7-foot chainlink perimeter fence, located in the N½ of the S½ of section 3, T. 37 N., R. 11 E. of the Third Principal Meridian, in Du Page County, Ill., with its main entrance on the south side of 91st Street between Cass Avenue and Clarendon Hills Road.

Notices stating the pertinent prohibitions of 10 CFR 160.3 and 160.4 and penalties of 10 CFR 160.5 will be posted at all entrances of said tracts and at intervals along their perimeters as provided in 10 CFR 160.6.

Dated at Washington, D.C., this 27th day of October 1969.

R. E. HOLLINGSWORTH,
General Manager.

[F.R. Doc. 69-13010; Filed, Oct. 30, 1969; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19529]

SPANTAX, S.A.

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard on November 12, 1969, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., October 27, 1969.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 69-13020; Filed, Oct. 30, 1969; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 463]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 27, 1969.

Pursuant to §§ 1.227(b)(3) and 21.26(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign, and nature of application

1973-C2-P-(2)-70—General Telephone Co. of the Southwest (KLF468), C.P. to add second channel to operate on frequency 152.78 MHz at station located at east side of FM 2012, 2.5 miles north of intersection of FM 2012 and FM 918, Kilgore, Tex.

1972-C2-MP-70—Telephone Answering Service, Inc. (KQZ704), Modify C.P. to change antenna system and relocate facilities to Steward and Leonard Streets, Creve Coeur, Ill., frequency 152.24 MHz.

1970-C2-P-(2)-70—Ralph C. Parker, doing business as Ratel Communications Co. (KFL911), C.P. to delete present control location and relocate facilities to location No. 2: Near intersection of Onaway and Pawshuska Streets, Wichita Falls, Tex., operating on frequency 454.15 MHz. Also reorient antenna for repeater facilities at location No. 1: 1 mile west and 1.5 miles south of Courthouse, Vernon, Tex., frequency 459.15 MHz.

1971-C2-P-(2)-70—Ralph C. Parker, doing business as Ratel Communications Co. (KLB802), C.P. to delete present control location and relocate facilities to location No. 2: Near intersection of Onaway and Pawshuska Streets, Wichita Falls, Tex., operating on frequency 454.25 MHz. Also reorient antenna for repeater facilities at location No. 1: Corner of Foxhall and Third Streets, Jacksboro, Tex., frequency 459.25 MHz.

1974-C2-P-(2)-70—RCC of Virginia, Inc. (KIY394), C.P. for two additional channels to operate on frequencies 152.12 MHz and 152.18 MHz at station located at 801 East Main Street, Richmond, Va.

1975-C2-P-70—Salinas Valley Radio Telephone Co. (KMA837), C.P. to add fourth channel at location No. 1: Mount Toro, 12 miles south-southeast of Salinas, Calif., to operate on frequency 152.18 MHz.

1976-C2-P-(3)-70—Sidney C. Childers and Shirley Childers, doing business as Communications Equipment & Service Co. (KWA632), C.P. for additional facilities. Location No. 2: 535 Second Avenue, Fairbanks, Alaska, to operate on base frequency 152.09 MHz; also add repeater 459.15 MHz for same. Add frequency 454.15 MHz at a new site to be identified as location No. 3: 1010 College Road, Fairbanks, Alaska.

1983-C2-P-70—South Central Bell Telephone Co. (New), C.P. for new developmental air-ground station to be located at 3951 Erato Street, New Orleans, La., to operate on frequencies 454.850 MHz (base); and 454.675 MHz (signaling).

1984-C2-P-70—Delaware Telephone Answering Service, Inc. (New), C.P. for new 1-way station to be located at 431 East Charles Street, Muncie, Ind., to operate on frequency 152.24 MHz.

1985-C2-P-(4)-70—Illinois Bell Telephone Co. (KSA755), C.P. to change antenna system for existing facilities located at 2800 Seventh Street, Moline, Ill., operating on frequencies 152.63 and 152.69 MHz. Also add frequencies 152.54 and 152.78 MHz at same location.

2080-C2-P-70—Curtin-Call Communications, Inc. (New), C.P. for a new 1-way-signaling station. Frequency: 158.70 MHz. Location: 225 East North Street, Indianapolis, Ind.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

2081–C2–P–(3)–70—Arkansas Mobile Telephone Co. (New), C.P. for a new 2-way station. Base frequencies: 454.125, 454.225, and 454.325 MHz. Location: Summit House Building, 200 North University Avenue, Little Rock, Ark.

2082–C2–P–(3)–70—Minnesota Mobile Telephone Co. (New), C.P. for a new 2-way station. Base frequencies: 454.05, 454.20, and 454.35 MHz. Location: River Towers Apartment, 1 Gateway Center, Minneapolis, Minn.

2083–C2–P–(3)–70—Oklahoma Mobile Telephone Co. (New), C.P. for a new 2-way station. Base frequencies: 454.075, 454.150 and 454.325 MHz. Location: Concharty Mountain Tower, Tulsa, Okla.

2084–C2–P–(3)–70—South Carolina Mobile Telephone Co. (New), C.P. for a new 2-way station. Base frequencies: 454.025, 454.125, 454.225 MHz. Location: 6 miles north of Greenville, S.C. on Paris Mountain.

2085–C2–P–70—Central Telephone Co. (KIB386), C.P. to add a second channel to operate on 152.72 MHz at its station located on Route No. 1, 0.25 mile off Old Highway No. 52, Mount Airy, N.C.

2086–C2–P–70—Tri-City Radio Dispatch Service, Inc. (KQD310), C.P. to change antenna system; replace transmitter operating on 152.03 MHz and relocate base station from 3274 Carrollton Road, Saginaw, Mich., to 1795 Tittabawasee Road, Saginaw, Mich.

2087–C2–P–70—Mobile Radio Communications (KBM508), C.P. to change antenna location from 901–923 Main Street, Kansas City, Mo., to 70th and Flint Road, Shawnee Village, Kans., for the 152.15 MHz (standby) facility. Base frequency 152.15 MHz will be used as a regular transmitter at the new location.

2093–C2–P–70—Radio Communications & Electronics Co. (New), C.P. for new 1-way station to be located at corner Dewey Street and Wilson Avenue, Albany, Ga., to operate on frequency 152.24 MHz.

2094–C2–P–70—Ray Andrew Fields, doing business as Autofone Co. (KOF910), C.P. to change antenna and transmission line for frequency 152.21 MHz at location No. 1: Mount Livingston, 6.5 miles north-northeast of Comas, Wash.

Major Amendments

786–C2–P–70—Joseph Schneller, doing business as Radar Paging Service (KLF573), Application amended to change base and mobile frequencies from 454.350 MHz and 459.350 MHz to 454.20 MHz and 459.20 MHz respectively. All other particulars to remain the same as reported on public notice dated Aug. 25, 1969, Report No. 454.

1224–C2–P–(2)–70—Radio Dispatch, Inc. (KLB701), Application amended to change base and mobile frequencies from 454.225 MHz and 459.225 MHz to 454.150 MHz and 459.150 MHz respectively. All other particulars to remain the same as reported on public notice dated Sept. 15, 1969, Report No. 457.

RURAL RADIO SERVICE

1968–C1–P–(2)–70—General Telephone Co. of California (New), C.P. for new fixed station to be located at location No. 1: Santa Rosa Island, 36 miles southwest of Santa Barbara, Calif., and location No. 2: Santa Rosa Island, 36 miles southwest of Santa Barbara, Calif., to operate on frequency 459.600 MHz.

The following applications have been received for stations at Fixed Points in Alaska which were formerly authorized to ACS.

The connecting facilities in many instances are operated by the Federal Government.

2005–C1–P/L–70—RCA Alaska Communications, Inc. (New), C.P. and License for a new central office station. Frequency: 227.5 MHz. Location: 200 Gaffney Road, Fairbanks, Alaska.

2006–C1–P/L–70—RCA Alaska Communications, Inc. (New), C.P.'s and Licenses for 44 new Inter-Office stations. Frequency: 162.3 MHz. Location: 1 mile south of Bettles Airport, Bettles, Alaska.

2007–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 76.1, 80.4, 84.3, and 162.3 MHz. Location: Biorka Island FAA, Alaska.

2008–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 162.3 and 163.3 MHz. Location: FAA VHF Building on Cordova Airport, Cordova, Alaska.

2009–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 72.3 and 77.5 MHz. Location: FAA Quarters Building, Dillingham, Alaska.

RURAL RADIO SERVICE—continued

2010–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 79.0 and 84.2 MHz. Location: FAA VHF Site, St. Johns Hill, Farewell, Alaska.

2011–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 162.3 MHz. Location: Iliamna Communications Transmitter Site, Iliamna, Alaska.

2012–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 76.2 MHz. Location: FAA VHF Site, Minchumina, Alaska.

2013–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 87.1 and 129.3 MHz. Location: FAA VHF Site, McGrath, Alaska.

2014–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 88.5 MHz. Location: Northway Airport, Northway, Alaska.

2015–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 85.3 and 86.5 MHz. Location: Center of Sisters Island, Sisters Island, Alaska.

2016–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 172.1 MHz. Location: FAA VHF Site, Sitka, Alaska.

2017–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 163.3 MHz. Location: Tanana Airport, Tanana, Alaska.

2018–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 459.45 MHz. Location: On side of oil platform, Marathon Dolly, Varden Platform, Alaska (Cook Inlet).

2019–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 454.55 MHz. Location: Nikishka, Alaska.

2020–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 459.65 MHz. Location: On side of Oil Platform "A" Shell Oil Platform, Alaska (Cook Inlet).

2021–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 454.65 MHz. Location: On side of oil platform, Shell Oil Platform, Alaska (Cook Inlet).

2022–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 459.55 MHz. Location: "B" Street—mounted on water tower, Tyonek, Alaska.

2023–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 454.45 MHz. Location: Marathon West Forelands, Alaska.

2024–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 77.3 MHz. Location: Point Lena Loop Road—62 miles from Glacier Highway, Lena Point, Alaska.

2025–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 72.2 MHz. Location: Killisnoo Road at Angoon Trading Co., Angoon, Alaska.

2026–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 73.5 and 90.0 MHz. Location: Cape Spencer, Alaska.

2027–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 87.125 MHz. Location: Coopers Landing, Alaska.

2028–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 95.4 MHz. Location: Cordova, Alaska.

2029–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 72.6 and 163.525 MHz. Location: Craig, Alaska.

2030–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 78.5 MHz. Location: Girdwood, Alaska.

2031–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies: 76.6 and 459.40 MHz. Location: Gustavus, Alaska.

2032–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 89.1 MHz. Location: Gartina Highway at Alaska Telephone Co. Van, Hoonah Village, Alaska.

2033–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 173.525 MHz. Location: Hydaburg, Alaska.

2034–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 164.3 MHz. Location: Kake, Alaska.

2035–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 93.8 MHz. Location: Pelican City, Alaska.

2036–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 79.1 MHz. Location: Petersburg, Alaska.

2037–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 173.95 MHz. Location: Point Hope, Alaska.

2038–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 88.3 MHz. Location: Portage, Alaska.

RURAL RADIO SERVICE—continued

2039–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 69.4 MHz. Location: Rainbow Street and Bayview Drive, Port Lions, Alaska.

2040–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 63.0 MHz. Location: Wakefield Fisheries Dock, Port Moller, Alaska.

2041–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 454.45 MHz. Location: Pow 3, Alaska.

2042–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 459.05 MHz. Location: Sag River, Alaska.

2043–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 72.5 MHz. Location: Sand Point, Alaska.

2044–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 72.8 MHz. Location: Sitka, Alaska.

2045–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 76.2 MHz. Location: Teller, Alaska.

2046–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 96.5 MHz. Location: Tok, Alaska.

2047–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 81.0 MHz. Location: Unalaska, Alaska.

2048–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 85.1 MHz. Location: Valdez, Alaska.

2049–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency: 90.2 MHz. Location: Wrangell, Alaska.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

1925–C1–P–70—Pacific Northwest Bell Telephone Co. (KON66), C.P. to delete frequency 903.6 and add frequencies 6249.1 and 11,565 MHz toward Canary Hill, Oreg., also replace transmitters for same location: Mary's Peak, Oreg.

1926–C1–P–70—Pacific Northwest Bell Telephone Co. (KON67), C.P. to delete frequency 928.4 and add frequencies 5997.1 and 11,115 MHz toward Mary's Peak, Oreg., and add frequencies 6011.9 and 6130.5 MHz toward Winchester Hill, Oreg. Location: Canary Hill, 4 miles southeast of Florence, Oreg.

1977–C1–P–70—The Chesapeake & Potomac Telephone Co. of Maryland (New), C.P. for a new fixed station to be located at 1.2 miles south of Randallstown, Md., to operate on frequency 11,685.0 MHz toward Owings Mills, Md.

1978–C1–P–70—The Chesapeake & Potomac Telephone Co. of Maryland (New), C.P. for a new fixed station to be located at Gwynbrook State Game Farm, 1.6 miles north of Owings Mills, Md., to operate on frequency 10,755.0 MHz toward Randallstown, Md.

1979–C1–P–70—Southern Bell Telephone & Telegraph Co. (KIB25), C.P. to add 6152.8 MHz toward Lovejoy, Ga. Location: 51 Ivy Street NE., Atlanta, Ga.

1980–C1–P–70—Southern Bell Telephone & Telegraph Co. (KVU79), C.P. to add 6404.8 MHz toward Forsyth, Ga. Location: 2.5 miles southeast of Lovejoy, Ga.

1981–C1–P–70—Southern Bell Telephone & Telegraph Co. (KIB41), C.P. to add 5960.0 MHz toward Macon, Ga. Location: 1 mile northwest of Forsyth, Ga.

LOCAL TELEVISION TRANSMISSION SERVICE

1982–C1–P–70—Indiana Bell Telephone Co. (KPS74), C.P. to change frequencies from 6226.9 and 6286.2 MHz to 6212.0 and 6271.4 MHz toward WFBM–TV (Indianapolis, Ind.) and from 6345.5 and 6404.8 MHz to 6330.7 and 6390.0 MHz toward WIWV–TV (Carmel, Ind.). Location: 240 North Meridian Street, Indianapolis, Ind.

RCA Alaska Communications, Inc., The following applications have been received for stations at fixed points in Alaska which were formerly authorized to ACS. The connecting facilities in many instances are operated by the Federal Government. Thirteen (13) C.P.'s and Licenses for new fixed stations as follows:

2050–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies 4170 and 4090 MHz toward Rabbit Creek; 3710 and 3790 MHz toward Elmendorf; and 7235 and 7535 MHz toward Fire Island, Alaska. Location: Foster Street and Bluff Drive, Anchorage, Alaska.

2051–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies 7502, 7740, 7553, and 7643 MHz toward Gilmore Creek and 3710 and 3790 MHz toward Pedro Dome, Alaska. Location: 200 Gaffney Road, Fairbanks, Alaska.

LOCAL TELEVISION TRANSMISSION SERVICE—continued

2052–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies 4130 and 4050 MHz toward Smugglers Cove, Alaska. Location: 2319 North Tongass, Ketchikan, Alaska.

2053–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequencies 5937.8 and 6056.4 MHz toward Lena Point, Alaska. Location: Signal Building, Sub Port, 301 Outer Drive, Juneau, Alaska.

2054–C1–P/L–70—RCA Alaska Communictions, Inc. (New), Frequencies 4130 and 4050 MHz toward Hoonah and 6189.9 and 6308.4 MHz toward Juneau, Alaska. Location: Point Lena Loop Road, 62 miles from Glacier Highway, Lena Point, Alaska.

2055–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2175.4 MHz toward Bird Creek, Alaska. Location: Rainbow, Alaska.

2056–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2125.4 MHz toward Rainbow, Alaska. Location: Bird Creek, Alaska.

2057–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2111.0 MHz toward McArthur River (Platform No. 1) Atlantic Richfield, 2125.4 MHz toward West Forelands, 2118.2 MHz toward Shell Oil Platform C and frequencies 2125.4, 3810, and 3730 MHz toward Soldotna, Alaska. Location: Nikishka, Alaska.

2058–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2168.2 MHz toward Nikishka, Alaska. Location: On side of Oil Platform, Shell Oil Platform C, Cook Inlet, Alaska.

2059–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2161 MHz toward Nikishka, Alaska. Location: On side of Oil Platform, Atlantic Richfield, Oil Platform (ARCO), Cook Inlet, Alaska.

2060–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2171.8 MHz toward Union Platform, Grayling and 2175.4 MHz toward Nikishka, Alaska. Location: Marathon West Forelands, Alaska.

2061–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2164.60 MHz toward Trading Bay and 2121.80 MHz toward West Forelands, Alaska. Location: On side of Oil Platform, Union Oil's Grayling Platform, Cook Inlet, Alaska.

2062–C1–P/L–70—RCA Alaska Communications, Inc. (New), Frequency 2114.6 MHz toward Grayling, Alaska. Location: On side of Oil Platform, Union Trading Bay, Cook Inlet, Alaska.

2063–C1–P–70—The Mountain States Telephone and Telegraph Co. (New), C.P. for a new fixed station to be located at 601 West Grand Avenue, Artesia, N. Mex., to operate on frequencies 10,955 and 10,715 MHz toward Artesia Junction, N. Mex.

2064–C1–P–70—The Mountain States Telephone and Telegraph Co. (KLO88), C.P. to add frequencies 11,405 and 11,645 MHz toward Artesia, N. Mex. Location: 13.5 miles east-southeast of Artesia, N. Mex.

2075–C1–P/ML–70—The Southern New England Telephone Co. (KCE81), C.P. and modification of license to add frequency 6271.4 MHz toward WEDH, Hartford, Conn. Location: 55 Trumbull Street, Hartford, Conn.

1027–C1–R–70—Bell Telephone Co. of Nevada (KPF80), Renewal of Developmental license expiring Dec. 10, 1969. Term: Dec. 10, 1969 to Dec. 10, 1970.

Major Amendments

286–C1–P–70—The Ohio Bell Telephone Co. (KQL27), Change frequencies from 6071.2 and 6130.5 MHz to 6137.9 and 6019.3 MHz toward Brunswick, Ohio.

287–C1–P–70—The Ohio Bell Telephone Co. (KQL28), Change frequency from 6308.4 to 6271.4 MHz toward Medina, Ohio, and change frequencies from 6323.2 and 6382.6 MHz to 6360.2 and 6241.7 MHz toward Cleveland, Ohio.

288–C1–P–70—The Ohio Bell Telephone Co. (KQO83), Change frequency from 6056.4 to 5989.7 MHz toward Brunswick, Ohio. All other particulars same as reported in public notice dated Aug. 4, 1969.

103–C1–P–70—Matanuska Telephone Association, Inc. (New), Change frequencies 6595, 6635, and 6675 MHz toward Twelvemile Lake, Alaska, to 6256.5, 6315.8, and 6375.1 MHz. Location: Scotty Lake, 5.9 miles west of Talkeetna, Alaska.

104–C1–P–70—Matanuska Telephone Association, Inc. (New), Change frequencies 6775, 6855, and 6815 MHz toward Scotty Lake, Alaska, to 3770, 3850, and 4010 MHz. Location: 1 mile west of Twelvemile Lake, Alaska. All other particulars same as reported in public notice dated July 22, 1969, Report No. 449.

Major Amendments—Continued

1175–C1–P–70—Western Union International, Inc. (New), Change frequencies 6595, 6635, and 6675 MHz toward Twelvemile Lake, Alaska, to 6315.8, 6256.5, and 6375.1 MHz. Location: Scotty Lake, 5.9 miles west of Talkeetna, Alaska.

1176–C1–P–70—Western Union International, Inc. (New), Change frequencies 6775, 6815, and 6855 MHz toward Scotty Lake, Alaska, to 3770, 3850, and 4010 MHz. Location: 1 mile west of Twelvemile Lake, Alaska. All other particulars same as reported in public notice dated Sept. 8, 1969, Report No. 456.

Informative

The U.S. Air Force; 550 Federal Office Building, Seattle, Wash.; has submitted a request for the use of the following frequencies at the following locations:

Nikishka, Alaska (60°43'13" N., 151°21'51" W.) to Soldontna, Alaska (60°31'53" N., 151°04'55" W.) 3730 MHz, 3810 MHz, 8500F9, 2 watts.

Soldontna, Alaska (60°31'53" N., 151°04'55" W.) to Nikishka, Alaska (60°43'13" N., 151°21'51" W.) 3910 MHz, 4150 MHz, 8500F9, 2 watts.

The above request has been received in the Frequency Registration and Notification Branch of the Frequency Allocation and Treaty Division.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

1991–C1–P–70—United Video, Inc. (New), C.P. for new station 1.5 miles northeast of Oklahoma City, Okla. at lat. 35°32'53" N., long. 97°29'52" W. Frequency 6019.3 MHz on azimuth 53°03'.

1992–C1–P–70—United Video, Inc. (New), C.P. for new station at Dudley, 3 miles west of Carney, Okla., at lat. 35°48'44" N., long. 97°03'48" W. Frequenecy 6271.4 MHz on azimuth 71°24'.

1993–C1–P–70—United Video, Inc. (New), C.P. for new station 2.7 miles northeast of Shamrock, Okla., at lat. 35°56'50" N., long. 96°33'50" W. Frequency 6019.3 MHz. on azimuth 56°59'.

1994–C1–P–70—United Video, Inc. (New), C.P. for new station 2 miles north-northeast of Sand Springs, Okla., at lat. 36°11'30" N., long. 96°05'46" W. Frequency 6271.4 MHz on azimuth 155°15'.

1995–C1–P–70—United Video, Inc. (New), C.P. for new station at Bald Hill, 8.5 miles east-northeast of Preston, Okla., at lat. 35°44'45" N., long. 95°50'35" W. Frequency 6019.3 MHz on azimuth 87°00'. (Informative: Applicant proposes to provide a closed-circuit video channel from Oklahoma City, Okla., to Muskogee, Okla., for the Oklahoma Regional Medical Program.)

1996–C1–P–70—United Video, Inc. (New), C.P. for new station 4 miles north-northeast of city limits of Duncan, Okla., at lat. 34°34'16" N., long. 97°55'40" W. Frequencies 11,345, 11,505, and 11,665 MHz on azimuth 317°42'.

1997–C1–P–70—United Video, Inc. (New), C.P. for new station 4 miles southwest of Cyril, Okla., at lat. 34°52'52" N., long. 98°16'20" W. Frequencies 10,815, 10,975, and 11,135 MHz on azimuth 298°01'.

1998–C1–P–70—United Video, Inc. (New), C.P. for new station 2 miles southeast of Mountain View, Okla., at lat. 35°04'37" N., long. 98°43'25" W. Frequencies 11,345, 11,505, and 11,665 MHz on azimuth 0°29".

1999–C1–P–70—United Video, Inc. (New), C.P. for new station 1 mile south of Weatherford, Okla., at lat. 35°31"23" N., long. 98°43'08" W. Frequencies 10,815, 10,975, and 11,135 MHz on azimuths 10°29', and 270°35".

2000–C1–P–70—United Video, Inc. (New), C.P. for new station 5 miles southeast of Oakwood, Okla., at lat. 35°52'53" N., long. 98°38'13" W. Frequencies 11,345, 11,505, and 11,665 MHz on azimuth 320°44'.

2001–C1–P–70—United Video, Inc. (New), C.P. for new station 4 miles southeast of Seiling, Okla., at lat. 36°06'00" N., long. 98°51'30" W. Frequencies 10,815, 10,975, and 11,135 MHz on azimuth 307°17'.

2002–C1–P–70—United Video, Inc. (New), C.P. for new station at 13th and Cedar Streets, Woodward, Okla., at lat. 36°25'40" N., long. 99°23'43" W. Frequencies 11,345, 11,505, and 11,665 MHz on azimuth 245°17'.

2003–C1–P–70—United Video, Inc. (New), C.P. for new station 0.2 mile southeast of city limits of Shattuck, Okla., at lat. 36°16'01" N., long. 99°52'09" W. Frequencies 10,815, 10,975, and 11,135 MHz on azimuth 283°20'.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

2004–C1–P–70—United Video, Inc. (New), C.P. for new station 6 miles south of Darrouzett, Tex., at lat. 36°21'29" N., long. 100°21'06" W. Frequencies 11,345, 11,505, and 11,665 MHz on azimuth 273°21'. (Informative: Applicant proposes to provide the television signals of stations KTVT, KFWT, and KDTV to CATV systems in Clinton and Weatherford, Okla., and Perryton, Tex.).

2089–C1–ML–70—New York Penn Microwave Corp. (KZA86), Modification of license to permit carriage of audio channel on a subcarrier. Station location: 6 miles northwest of Tyrone, Pa. (Informative: Applicant proposes to provide the FM broadcast signal of WQXR to Centre Video of State College, Pa.).

2090–C1–MP–70—American Television Relay, Inc. (KPY74), Modification of C.P. to change frequency 6360.2 MHz to 6419.6 MHz on azimuth 16°07', and 218°51'. Location: Elden Mountain, 1.6 miles north of East Flagstaff, Ariz.

2095–C1–ML–70—American Microwave and Communications, Inc. (KQH75), 4.5 miles west of Fairview, Mich.

2096–C1–ML–70—American Microwave and Communications, Inc. (KQL24), 4 miles northeast of Harbor Springs, Mich.

2097–C1–ML–70—American Microwave and Communications, Inc. (KQL25), 1 mile west-southwest of Mackinaw City, Mich.

2098–C1–ML–70—American Microwave and Communications, Inc. (KYO47), 3.5 miles north of Williamston, Mich.

2099–C1–ML–70—American Microwave and Communications, Inc. (KYO50), 2 miles west of Harrison, Mich.

(Informative: Applicant proposes to modify the above stations to permit the carriage of an audio signal on a subcarrier frequency on one of the microwave channels in order to provide a service for Interstate Broadcast Network, Inc. The audio service will be delivered to radio stations in Cadillac, Alpena, Petoskey, and Cheboygan, Mich.)

Correction

1842–C1–P–70—United Video, Inc. (New), Correction: (Informative note appearing on public notice dated Oct. 13, 1969, should have specified the signals of WGN–TV and WFLD to be delivered to Mount Pleasant, Iowa, rather than (4) signals delivered to Fort Madison, Iowa.)

[F.R. Doc. 69–13006; Filed, Oct. 30, 1969; 8:47 a.m.]

[Dockets Nos. 18691, 18692]

ALABAMA MICROWAVE, INC. AND NEWHOUSE ALABAMA MICROWAVE, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Alabama Microwave, Inc., for construction permits in the domestic public point-to-point Microwave Radio Service for the establishment of three new stations at or near Gadsden, Anniston, and Guntersville, Ala., and the modification of one existing station, KRR71, at Huntsville, Ala., Docket No. 18691, File Nos. 1481 through 1484–C1–P–69; Newhouse Alabama Microwave, Inc., for construction permits in the domestic public point-to-point Microwave Radio Service for the establishment of the three new stations at or near Birmingham, Pell City, and Anniston, Ala., Docket No. 18692, File Nos. 147 through 149–C1–P–70.

1. The Commission has before it the captioned, mutually exclusive applications each proposing to provide video relay service to WHMA–TV in Anniston, Ala., a new UHF station. The applications of Newhouse Alabama Microwave, Inc. (Newhouse), were listed as accepted for filing on the Commission's Common Carrier Public Notice of July 22, 1969; were granted on September 22, 1969 by the Chief of the Common Carrier Bureau acting under delegated authority for the Commission pursuant to § 0.291(b) of the Commission's rules; and were listed as having been granted on the Common Carrier Public Notice of September 29, 1969. The applications of Alabama Microwave, Inc. (Alabama), were filed on September 19, 1969, within the time period which would afford Alabama rights of mutual exclusivity pursuant to § 1.227 (b)(3) and 21.26(b) of the Commission's

rules. On recognition of the mutually exclusive nature of the two proposals, the September 22, 1969 action of the Commission granting the Newhouse applications was rescinded on October 1, 1969 pursuant to the provisions of § 1.113(a) of the Commission's rules, and the Newhouse applications returned to pending status to be considered in conjunction with the applications of Alabama.

2. Alabama has an existing station at Huntsville, Ala., where it intends to receive the signals of WAAY–TV (ABC and NBC) and WHNT–TV (CBS) (presumably off the air) both of Huntsville, Ala., and relay these signals via three proposed new stations at Guntersville, Gadsden, and Anniston, Ala., for delivery to WHMA–TV in Anniston. The proposed Newhouse route would originate at a new station at the studios of WAPI–TV (NBC and CBS), Birmingham, Ala., and be relayed through two other new stations at Bald Rock Mountain (near Pell City) and Blue Mountain (near Anniston) for delivery to WHMA–TV. Both of the proposals would provide two channels of service, one NBC and the other CBS, thereby permitting WHMA–TV to broadcast the signal of its choice while taping the other signal for subsequent broadcast. WHMA–TV has given an order, dated July 7, 1969, to Newhouse for the proposed service.

3. WHMA–TV has a target date for beginning broadcast operations of October 15, 1969. It is recognized by all parties hereto that this station could not commence service without the availability of the signals herein proposed to be delivered. A prolonged delay of the availability of service could cause irreparable harm to WHMA–TV and consequently to the citizens of Anniston. Under the circumstances it is obvious that the rendition of service should not await the outcome of a comparative hearing on the relative merits of the two proposals.

4. The parties are in agreement that service must be provided without undue delay. We are advised that the Newhouse facility is now approximately 90 percent complete and that service could be instituted within a matter of days. The parties agree that the Newhouse proposal is the only proposal that could be completed in time to meet the deadline of the broadcaster. Therefore, if we are to act in time to allow for the rendition of service to meet this urgent need, and we think this is imperative, we must authorize completion of the Newhouse proposal. The parties have not been able to reach an interim joint arrangement. The position of Newhouse is that it should be allowed to operate its proposed facilities pending the outcome of a comparative hearing. The Alabama position is that the Commission should force a joint operating arrangement of the Newhouse facilities enabling both applicants to participate equally in any rendition of microwave relay service to WHMA–TV. The estimates of Newhouse for the total cost of the facilities it proposed was $75,946. If only 10 percent of the construction is still to be completed then it appears that only a minimal additional expenditure would be required to institute service. Newhouse is a subsidiary of Newhouse Broadcasting Co. whose balance sheet of May 31, 1969 reflects current assets of over $6,654,496. The additional expenditure required to institute service, therefore, should not be of sufficient magnitude to cause substantial prejudice to Alabama in a comparative hearing.

5. On the basis of the limited information now before the Commission, it appears that the public interest would best be served by grant of a conditional authorization to Newhouse. Newhouse is selected because, by mutual agreement of the parties and from all evidence now before us, it is the only proposal which can be in operation in time to meet the public interest. In view of the short time remaining before service is needed, the attitude of the parties, and the problems involved in deriving, concluding and administering a joint interim proposal, we do not believe that further attempts to negotiate a joint agreement between the parties would be productive or should be pursued.

6. *Accordingly, it is hereby ordered,* That Newhouse Alabama Microwave, Inc., is granted, pursuant to § 21.27(g) of the Commission's rules, interim authority to construct and operate additional facilities as proposed in File Nos. 147 through 149–C1–P–70 pending final Commission action on the applications. This conditional grant is without prejudice to further Commission order and is made upon the express condition that it is subject to being withdrawn if, at the hearing, it is shown that the public interest will be better served by the grant of the competing Alabama Microwave, Inc., applications. Further, Newhouse shall not claim any preference at the hearing because of this award of interim authorization herein.

7. *It is further ordered,* Pursuant to authority delegated in § 0.292(a) of the Commission's rules and in accordance with section 309(e) of the Communications Act of 1934, as amended, that the captioned applications are designated for hearing, in a consolidated proceeding at the Commission's offices in Washington, D.C., before an examiner and on a date to be hereafter specified by separate order, upon the following issue:

To determine on a comparative basis whether, and to what extent, the proposal of Alabama or Newhouse would better serve the public interest, convenience and necessity, considering factors including, but not limited to, the following:

(a) Conservation of radio spectrum;

(b) Quality and reliability of proposed service;

(c) Costs of construction and operation; and

(d) Charges, regulations, and conditions of service.

8. *It is further ordered,* That Newhouse Alabama Microwave, Inc., Alabama Microwave, Inc., and the Chief, Common Carrier Bureau are made parties to the proceeding.

9. *It is further ordered,* That the parties desiring to participate shall file their appearances in accordance with § 1.221 of the Commission's Rules.

Adopted: October 10, 1969.

Released: October 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] ASHE H. ENDE,
Deputy Chief,
Common Carrier Bureau.

[F.R. Doc. 69–13007; Filed, Oct. 30, 1969; 8:47 a.m.]

[Docket No. 18704; FCC 69–1145]

LARRY D. McCREARY

Order Designating Application for Hearing on Stated Issues

In regard application of Larry D. McCreary, Franklin, Ky., for Amateur Extra Class operator license and Amateur radio station license, Docket No. 18704.

The Commision has under consideration the above-entitled application for an Amateur Extra Class operator license and Amateur radio station license filed by Larry D. McCreary, formerly licensee of Amateur station K4KHE.

There is a substantial question concerning the qualifications of applicant to hold an Amateur operator and station license arising from communications he transmitted by his Amateur radio station K4KHE on or about April 10 and 15, September 25, October 21, 26, and 28, November 11 and 26, and December 9, 17, and 24, 1967; and his conviction on November 11 1968, by the U.S. District Court for the Western District of Kentucky for transmitting communications over that station containing obscene language in violation of title 18, section 1464 of the United States Code.

The Commission is unable to find that a grant of the captioned application would serve the public interest, convenience, and necessity and, must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold an Amateur radio operator and station license.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

1. To determine the facts concerning the communications transmitted by Amateur radio station K4KHE by applicant on or about April 10 and 15, September 25, October 21, 26, and 28, November 11 and 26, and December 9, 17, and 24, 1967.

2. To determine whether the communications transmited by applicant on the dates specified in Issue 1 were consistent with the basis and purpose of the Amateur Radio Service as outlined in section 97.1 of the rules.

3. To determine whether the communications transmitted by applicant on the dates specified in Issue 1 were contrary to the terms and conditions specified on applicant's then outstanding license for station K4KHE and otherwise contrary to the public interest, convenience, and necessity.

4. To determine whether the communications transmitted by applicant on the dates

specified in Issue 1 contained obscene, indecent or profane words, language or meaning, in violation of section 97.119 of the Commission's rules.

5. To determine the facts concerning the conviction of applicant by the U.S. District Court on November 11, 1968, for his transmitting obscene language in his communications over station K4KHE on October 21, 26, and 28, November 11, and December 9, 17, and 24, 1967, in violation of title 18, section 1464 of the United States Code.

6. To determine whether, in view of the evidence adduced in the above-specified issues, Larry D. McCreary possesses the requisite qualifications to be a licensee of the Commission.

7. To determine whether, in light of the evidence adduced with respect to the foregoing issues, the grant of the subject application for renewal of Amateur Extra class operator and Amateur radio station licenses would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and present evidence on the issues specified in this order.

It is further ordered, That the Chief, Safety and Special Radio Services Bureau, shall, within 10 days after the release of this order, furnish a bill of particulars to the applicant herein setting forth the basis for the above issues.

Adopted: October 22, 1969.

Released: October 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-13008; Filed, Oct. 30, 1969; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI69-670]

CONTINENTAL OIL CO.

Order Accepting Decreased Rate Filing Subject to Refund in Existing Rate Suspension Proceeding

OCTOBER 22, 1969.

Continental Oil Co. (Operator) (Continental) has filed a corrected rate increase from 15.05 cents to 18 cents per Mcf for a sale of gas to El Paso Natural Gas Co. in the Permian Basin Area of Texas. The filing amends a former increase filed by Continental from 15.05 cents to 18.2430 cents per Mcf which was suspended in Docket No. RI69-670 and made effective subject to refund on September 6, 1969. Continental eliminates from its previously filed rate of 18.2430 cents per Mcf tax reimbursement which it has never collected and requests that the instant rate increase be substituted in lieu of the original rate filing and that it be made subject to the same rate suspension proceeding. The proposed substitute rate filing is set forth in Appendix "A" hereof.

Continental's proposed rate decrease exceeds the applicable area rate prescribed in Opinion No. 468, as amended, as did the previously suspended rate in said docket. In view of the above, we believe that it would be in the public interest to accept for filing Continental's proposed rate decrease effective as of September 6, 1969, subject to refund in the existing rate suspension proceeding in Docket No. RI69-670.

The Commission finds: Good cause exists for accepting for filing Continental's rate decrease, as set forth in Appendix "A" hereof, effective as of September 6, 1969, subject to refund in the existing rate suspension proceeding in Docket No. RI69-670.

The Commission orders: The proposed rate decrease contained in Appendix "A" hereof is accepted for filing and permitted to become effective as of September 6, 1969, subject to the existing rate suspension proceeding in Docket No. RI69-670.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-670	Continental Oil Co. (Operator), Post Office Box 2197, Houston, Tex. 77001.	168	[1] 1 to 6	El Paso Natural Gas Co. (Ramsey Plant, Reeves and Culberson Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	$41,237	9-22-69	[2] 9-6-69	(Accepted—subject to refund).	15.05	[3] [4] 18.0	

[1] Corrects rate increase filed Mar. 6, 1969, and effective subject to refund in Docket No. RI69-670. Original filing incorrectly included tax reimbursement.
[2] The stated effective date is the date of termination of the suspension period for the original filing.
[3] Increase from applicable area ceiling rate to contract rate.
[4] Pressure base is 14.65 p.s.i.a.

[F.R. Doc. 69-13012; Filed, Oct. 30, 1969; 8:47 a.m.]

[Docket No. CP70-85]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 10, 1969.

Take notice that on October 6, 1969, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Neb. 68102, filed in Docket No. CP70-85 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and as implemented by § 157.7 of the Regulations thereunder, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1970, and operation of gas sales facilities for the sale of natural gas in interstate commerce and the miscellaneous rearrangement of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed facilities are to be utilized for the sale of natural gas to existing distributors for resale in existing market areas and for direct sales through its Peoples Division. Applicant further states that firm volumes to be delivered will be provided from the existing contract demand of the distributor involved, or from capacity of the existing pipeline facilities in areas where contract demand rate schedules are not applicable.

The estimated cost of applicant's proposed facilities and rearrangements is not to exceed $300,000 and will be financed from cash on hand.

Applicant requests a waiver of the provisions of § 157.7(c)(1)(i) of the regulations under the Natural Gas Act which prohibits the filing of an abbreviated application when a distributor is required to make a contribution to the applicant for cost of construction of facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1969 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a

party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 field, or if the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-13013; Filed, Oct. 30, 1969; 8:47 a.m.]

[Docket No. RI66-403]

TEXACO, INC.

Order Accepting Decreased Rate Filing Subject to Refund in Existing Rate Suspension Proceeding

OCTOBER 22, 1969.

Texaco, Inc. (Texaco), proposes a revenue-sharing rate decrease from 11.0182 cents to 10.0601 cents per Mcf, including tax reimbursement, for a sale for resale to Phillips Petroleum Co. (Phillips) in Texas Railroad District No. 10. Phillips gathers and processes the gas in its Sherman Gasoline Plant and resells the residue gas under its FPC Gas Rate Schedule No. 4 to Michigan Wisconsin Pipe Line Company at a rate of 15.22 cents plus applicable tax reimbursement which is in effect subject to refund in Docket No. RI65-256. Texaco's present 11.0182 cents rate is effective subject to refund in Docket No. RI66-403 and its last firm rate (not subject to refund) is 8.9087 cents. Texaco's proposed rate decrease is set forth in Appendix "A" hereof.

The proceeding in Docket No. RI66-403 involves a rate increase from 10.1811 cents to 11.0182 cents per Mcf filed by Texaco on May 13, 1966. The proposed rate increase was suspended by the Commission's order issued June 7, 1966, in Docket No. RI66-403 for 1 day until June 14, 1966, and was subsequently made effective subject to refund.

Even though Texaco's proposed rate decrease does not exceed the 11 cents per Mcf increased rate ceiling for Texas Railroad District No. 10 as announced in the Commission's statement of general policy No. 61-1, as amended, it is based on Phillips' resale rate which is in effect subject to refund. In these circumstances, we conclude that it would be in the public interest to waive the 30-day notice requirement and accept for filing Texaco's proposed decreased rate to become effective as of August 1, 1969, the proposed effective date, subject to refund in the existing rate suspension proceeding in Docket No. RI66-403.

The Commission finds: Good cause exists for accepting for filing Texaco's proposed rate decrease, as set forth in Appendix "A" hereof, effective as of August 1, 1969, subject to refund in the existing rate suspension proceeding in Docket No. RI66-403.

The Commission orders: The proposed rate decrease contained in Appendix "A" hereof, is accepted for filing and permitted to become effective as of August 1, 1969, subject to refund in the existing rate suspension proceeding in Docket No. RI66-403.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed decreased rate	Rate in effect subject to refund in dockets Nos.
RI66-403	Texaco, Inc., Post Office Box 3109, Midland, Tex. 79701.	144	9	Phillips Petroleum Co.[1] (Texas-Hugoton Field, Hansford County, Tex.) (RR. District No. 10).	$230	9-24-69	[2] 8-1-69	(Accepted—subject to refund).	[3] [7] 11.0182	[3] [4] [5] [7] 10.0601	RI66-403.

[1] Phillips gathers and processes the gas and resells the residue gas to Michigan-Wisconsin Pipe Line Co. under its FPC Gas Rate Schedule No. 4 at a rate of 15.22 cents plus applicable tax reimbursement which is in effect subject to refund in Docket No. RI65-256. A rate of 16.22 cents plus applicable tax reimbursement is suspended in Docket No. RI70-28 until Jan. 1, 1970.
[2] The stated effective date is the effective date requested by Respondent.
[3] Revenue-sharing rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Based on 148.157 percent of a base rate of 6.6997 cents (7.1463 cents less 0.4466-cent deduction for sour gas—filing indicates gas is sour). 148.157 percent = Phillips' present 15.22-cent rate divided by Phillips' 10.2729-cent base rate which became contractually due on Aug. 1, 1969.
[7] Includes 0.1468-cent tax reimbursement before increase and 0.1340-cent tax reimbursement after increase.

[F.R. Doc. 69-13014; Filed, Oct. 30, 1969; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

UNITED STATES LINES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed by:

John Mason, Esq., Ragan & Mason, 900 17th Street NW., Washington, D.C. 20006.

Agreement No. 9827, between United States Lines, Inc. (USL), and Sea-Land Service, Inc. (Sea-Land), provides for:

(1) The time charter of 16 USL container ships to Sea-Land for a period of 20 years pursuant to the terms and conditions set forth in the "Time Charter Party" dated October 27, 1969, with the charterer (Sea-Land) enjoying an "irrevocable option" to purchase these vessels at the end of the hire period. These vessels are to be engaged in world-wide trading at charterer's option; *Provided*, That if this agreement is not approved by the Federal Maritime Commission on or before December 31, 1969, or if it is approved in a form substantially different than as filed, the parties have options to cancel the arrangement;

(2) The leasing and subleasing of all USL's owned and leased container operations equipment by Sea-Land pursuant to the terms and conditions of the "Agreement of Lease and Sublease" dated October 27, 1969, with Sea-Land enjoying an "irrevocable option" to purchase same at the end of the hire period, subject to cancellations as set forth in (1) above; and

(3) Undertakings by Walter J. Kidde & Co., sole stockholder of USL, and R. J. Reynolds Tobacco Co., sole stockholder of McLean Industries, Inc., in turn sole

stockholder of Sea-Land, each guaranteeing the performance of their subsidiaries.

Dated: October 29, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-13053; Filed, Oct. 30, 1969; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 932]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 28, 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 1131), 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 protests 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 field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13651 (Sub-No. 13 TA), filed October 14, 1969. Applicant: PEOPLES TRANSFER, INC., Post Office Box 6367, Phoenix, Ariz. 85005. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, 3550 North Central, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, bottles and jars with or without caps, covers, stoppers, or tops, and corrugated paper boxes or paper containers knocked down*, when moving in mixed shipments with the foregoing commodities, and on return, *rejected and refused shipments and empty pallets*, from points in Los Angeles, Orange, and Riverside Counties, Calif., to points in Nevada and Arizona, for 180 days. Supporting shippers: Anchor Hocking Glass Corp., 4855 East 52d Place, Los Angeles, Calif. 90022; A. H. K. Division of Kerr Glass Manufacturers, Inc., Post Office Box 2365, Santa Ana, Calif. 92707; Pepsi Cola Metropolitan Bottling Company of Phoenix, 1301 North Black Canyon Highway, Phoenix, Ariz. 85009; Arnold Pickle & Olive Co., 1401 East Van Buren, Phoenix, Ariz. 85006; Seven-Up Bottling of Phoenix, Inc., 1645 West Buckeye Road, Phoenix, Ariz. 85007; Phoenix Coca-Cola Bottling Company, Post Office Box 20008, Phoenix, Ariz. 85036. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 22229 (Sub-No. 57 TA), filed October 22, 1969. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Harold H. Clokey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *paper and paper products;* (2) *machines and machinery, including food handling machines, palletizers, depalletizers, scramblers, and conveyor systems;* (3) *foodstuffs*, canned, prepared, or preserved; (4) *citrus and citrus products;* (5) *sauces and salad dressings;* (6) *pipe and tubing;* (7) *aluminum building materials; aluminum articles, weatherstripping, aluminum screws, metal cloth, acoustical systems, ceiling tile, steel and aluminum angles;* (8) *ceramic tile; ceramic bathroom fixtures;* (9) *carpet, carpeting, carpet remnants, rugs, mats, or molding;* (10) *wooden building materials;* (11) *plastic pipe fittings;* (12) *paints, paint material or putty;* (13) *beverages and beverage preparations;* (a) from points in that part of Florida on and south of a line beginning at Cedar Keys, extending along Florida Highway 24 to Waldo, thence along U.S. Highway 301 to Baldwin, Fla.; thence along U.S. Highway 90 to Jacksonville, and the commercial zone thereof (except that part of Florida known as the Florida Keys), to points in Alabama, Georgia, Illinois, Indiana, Kentucky, and Tennessee, (b) from St. Marys, Ga., to points in Alabama, Illinois, Indiana, Kentucky, and Tennessee, for 180 days. NOTE: Applicant intends to tack MC 22229 and subs thereto. Supporting shippers: There are approximately (30) statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 114533 (Sub-No. 203 TA), filed October 23, 1969. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities), as are used in the conduct and operations of banks and banking institutions, *audit media, and other business records*, between St. Louis, Mo., on the one hand, and, on the other, points in Kansas, for 180 days. Supporting shipper: Credit Systems, Inc., 6710 Clayton Road, St. Louis, Mo. 63117 and 34 banks located in the State of Kansas. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 120906 (Sub-No. 4 TA) (Correction), filed October 2, 1969, published in the FEDERAL REGISTER issue of October 10, 1969, and republished corrected, this issue. Applicant: SPECIAL SERVICE DELIVERY, INC., 828 Prouty Avenue, Toledo, Ohio. Applicant's representative: William B. Avery (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities dealt in by hardware, industrial, and department store wholesalers*, between the plantsite of The Bostwick-Braun Co. at Toledo, Ohio, on the one hand, and on the other, points in Monroe, Lenawee, Hillsdale, Branch, Calhoun, Jackson, Washtenaw, Wayne, Eaton, Ingham, Livingston, Oakland, Macomb, St. Clair, Lapeer, Genesee, Shiawassee, and Clinton Counties, Mich.; Restriction: The service authorized above is restricted to shipments originating at, or destined to, the plantsite of The Bostwick-Braun Co. at Toledo, Ohio, for 150 days. NOTE: The purpose of this republication is to correct an error in the commodity description. Supporting shipper: The Bostwick-Braun Co., Summit Street, Toledo, Ohio 43604. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, Toledo, Ohio 43604.

No. MC 133937 (Sub-No. 1 TA) (Correction), filed October 23, 1969, published in the FEDERAL REGISTER, issue of October 23, 1969, and republished in part, this issue. Applicant: CAROLINA CARTAGE COMPANY, INC., 654 Keith Drive, Greenville, S.C. 29607. Applicant's representative: Henry P. Willimon, Post Office Box 1075, Greenville, S.C. NOTE: The purpose of this partial republication is to show Atlanta Municipal Airport, Atlanta, Ga., in lieu of Atlanta Municipal Airport, Atlanta, La. The rest of the application remains as published.

No. MC 134022 (Sub-No. 1 TA), filed October 22, 1969. Applicant: CONTRACT TRANSPORTATION, INC., 4008 Schuster Drive, West Bend, Wis. 53095. Applicant's representative: William E. McCarty, Midland Bank Building, 211 West Wisconsin Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beer, soda, salt, cheese, leather goods, and supplies*, from points in Illinois, Minnesota, Michigan, and Wisconsin to points in Wisconsin, Minnesota, Missouri, Michigan, Illinois, Indiana, and Ohio, and (2) *Salt*, in bags from St. Clair, Mich., to town of Leroy, Dodge County, Wis., for Grande Cheese Co., for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application,

which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 134086 (Sub-No. 1 TA), filed October 22, 1969. Applicant: LEWIS A. HANNABASS, Box 119, Goodview, Va. 24095. Applicant's representative: Eston H. Alt, Post Office Box 81, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those injurious or contaminating to other lading, commodities in bulk, and commodities requiring special equipment), from points in Bedford and Roanoke Counties, Va., to points in Greenbrier, Summers, Monroe, Mercer, and McDowell Counties, W. Va., for 150 days. Supporting shipper: Montgomery Ward, Baltimore, Md. 21332. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 134106 TA, filed October 16, 1969. Applicant: L. G. WILKERSON, doing business as TRUCKEE AUTO REPAIR, Post Office Box 1238, Truckee, Calif. 95734. Applicant's representative: Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled automobiles, trucks, tractors, semitrailers, and full trailers and replacements thereof and wrecked or disabled trailers*, using wrecker type tow trucks, in truckaway service, as a common carrier by motor vehicle in interstate or foreign commerce, between points in that part of California on and north of U.S. Highway 50 and on and south of a line beginning at the Pacific Ocean and extending along U.S. Highway 299 to junction U.S. Highway 395 at Alturas, Calif., and thence along U.S. Highway 295 to the California-Oregon State line, and points in that part of Nevada on and north of U.S. Highway 6, over irregular routes, for 180 days. Supporting shippers: State of California, Department of Public Works, Division of Highways, 369 Pine Street, San Francisco, Calif.; Tahoe Vangas, Post Office Box 685, Tahoe City, Calif. 95730; Greyhound Lines West, 371 Market Street, San Francisco, Calif. 94106; Nevada Central Motor Lines, Inc., 100 Giroux Street, Reno, Nev. 89502. Send protests to: District Supervisor Daniel Augustine, Interstate Commerce Commission, Bureau of Operations, Room 24, 222 East Washington Street, Carson City, Nev. 89701.

No. MC 134119 TA, filed October 23, 1969. Applicant: SECURITY STORAGE & VAN COMPANY OF NEWPORT NEWS, VA., INC., 5713 Jefferson Avenue, Newport News, Va. 23605. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to traffic having a prior or subsequent movement in containers, and to the performance of pickup and delivery service in connection with packing, crating, and containerization and unpacking and decontainerization, between points in the cities of Newport News, Norfolk, Hampton, Virginia Beach, Williamsburg, Portsmouth, Franklin, and Chesapeake, Va., and the counties of York, James City, Gloucester, Matthews, Surry, Isle of Wight, Nansemond, Sussex, Southampton, and Northampton, Va., for 180 days. Supporting shippers: Getz Bros. & Co. (U.S.), Post Office Box 2230, Wilmington, Calif. 90744; Jet Forwarding Inc., 2945 Columbia St., Torrance, Calif. 90503; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, Wash. 98133. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13022; Filed, Oct. 30, 1969; 8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 28, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41791—*Iron and steel articles to Kenner, La.* Filed by Illinois Freight Association, agent (No. 349), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from specified points in Illinois, also Ashland, Ky., to Kenner, La.

Grounds for relief—Market competition.

Tariffs—Supplement 34 to Illinois Freight Association, agent, tariff ICC 1159, and supplement 189 to Southern Freight Association, agent, tariff ICC S-502.

FSA No. 41792—*Sand to Sandyville and Zanesville, Ohio.* Filed by Southwestern Freight Bureau, agent (No. B-96), for interested rail carriers. Rates on sand, in carloads, as described in the application, from Brady, Tex., to Sandyville and Zanesville, Ohio, also from specified points in Missouri and Oklahoma to Sandyville, Ohio.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariff—Supplement 56 to Southwestern Freight Bureau, agent, tariff ICC 4797.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13021; Filed, Oct. 30, 1969; 8:48 a.m.]

[Notice 436]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 28, 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.

F. D. No. 25841. By order of October 22, 1969, the Motor Carrier Board approved the transfer to Beers and Minnis, Inc., San Francisco, Calif., of the second amended certificate and order in Nos. W-318 and W-319 issued January 11, 1968, to Edwin A. Beers and William G. Minnis, a partnership, doing business as Beers & Minnis, San Francisco, Calif., authorizing operation as a common carrier by self-propelled vessels and by non-self-propelled vessels with the use of separate towing vessels, in interstate or foreign commerce, in the transportation of commodities generally, between points on the San Francisco, San Pablo, and Suisun Bays, the Sacramento River, and on the San Joaquin River below and including Stockton, Calif., and their tributaries. William W. Schwarzer, J. Thomas Rosch, and Diana Stoppello, 601 California Street, San Francisco, Calif. 94108, attorneys for applicants.

No. MC-FC-71668. By order of October 22, 1969, the Motor Carrier Board approved the transfer to Donald L. Kerbs and Neal J. Lovin, a partnership, doing business as C & R Truck Line, Salina, Kans., of the certificate and certificate of registration in Nos. MC-98658 (Sub-No. 1) and MC-98658 (Sub-No. 4) issued August 3, 1954, and July 28, 1964, respectively, to Charles Christensen and Hugo Reinert, a partnership, doing business as C & R Truck Line, Salina, Kans., authorizing the transportation of general commodities, with specified exceptions, over a regular route between Salina and Sylvan Grove, Kans., serving all intermediate points, and evidencing a right to engage in transportation corresponding to authority granted by the State Corporation Commission of Kansas in certificates of convenience and necessity covering Routes 191 and 3157. Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13023; Filed, Oct. 30, 1969; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October

3 CFR

Page

PROCLAMATIONS:

3938 ... 15523
3939 ... 15525
3940 ... 15695
3941 ... 16855
3942 ... 17097
3943 ... 17099

EXECUTIVE ORDERS:

Feb. 25, 1919 (revoked in part by PLO 4720) ... 17333
5327 (revoked in part by PLO 4718) ... 17170
8647 (see PLO 4703) ... 15557
8920 (modified by PLO 4709) ... 15755
10030 (superseded by EO 11485) ... 15411
10753 (superseded by EO 11487) ... 15593
10988 (revoked by EO 11491) ... 17605
11230 (see EO 11488) ... 15835
11248 (amended by EO 11489) ... 17419
11484 ... 15337
11485 ... 15411, 15443
11486 ... 15527
11487 ... 15593
11488 ... 15835
11489 ... 17419
11490 ... 17567
11491 ... 17605

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Memorandum of May 21, 1963 (revoked by EO 11491) ... 17605
Reorganization Plan No. 1 of 1969 ... 15783

5 CFR

213 ... 15297, 15413, 15558, 15559, 15595, 15711, 15712, 15747, 15837, 16594, 17061, 17231
550 ... 15747
630 ... 17617
713 ... 15595
831 ... 17617

7 CFR

5 ... 15785
29 ... 17061
68 ... 15631
171 ... 15632
210 ... 15414
215 ... 17325
220 ... 15414
225 ... 15414
319 ... 15559
354 ... 15636
401 ... 17524
722 ... 15445, 15446, 16857, 17101
728 ... 16421, 16596
813 ... 16608
831 ... 17102
833 ... 16422
849 ... 17153
850 ... 17153, 17155
855 ... 15785
873 ... 17159
874 ... 15637, 17061
906 ... 17325
907 ... 17525
908 ... 15339, 15640
909 ... 15747
910 ... 15447, 15748, 16858, 17325
911 ... 17326
912 ... 16858, 17326
913 ... 16858, 17327
925 ... 17061
931 ... 16858
932 ... 15339
944 ... 17327
945 ... 16859
946 ... 15837
947 ... 17161, 17162
948 ... 15290, 15447
953 ... 17327
958 ... 15448
982 ... 17231
984 ... 17062
989 ... 15340, 16860
1007 ... 17618
1090 ... 17619
1131 ... 17428
1421 ... 15414, 15448, 16423, 17385
1427 ... 17328
1443 ... 15559
1446 ... 15640
1602 ... 15785
1800 ... 17431

PROPOSED RULES:

26 ... 17031
51 ... 17110
55 ... 15561
725 ... 17175
730 ... 15485
815 ... 17110
906 ... 15361, 17031
907 ... 15713, 17176
913 ... 17335
925 ... 15486
931 ... 15362
945 ... 15486
947 ... 16626
953 ... 15716
959 ... 16627, 17297
966 ... 16547, 17114
980 ... 16548
982 ... 15562, 15758
984 ... 15420, 15845
989 ... 17032, 17335
991 ... 17032
1001 ... 15362, 16881
1002 ... 16881
1003 ... 16881, 17298
1004 ... 16881, 17298
1005 ... 16881
1006 ... 16881
1007 ... 17065
1011 ... 16881
1012 ... 16881
1013 ... 16881
1015 ... 15362, 16881
1016 ... 16881, 17298
1030 ... 16881
1032 ... 16881
1033 ... 16881
1034 ... 16881
1035 ... 16881
1036 ... 16881
1040 ... 16881
1041 ... 16881
1043 ... 16881
1044 ... 16881
1046 ... 16881
1049 ... 16881
1050 ... 16881
1060 ... 16881
1062 ... 16881
1063 ... 16881
1064 ... 16881
1065 ... 16881
1068 ... 16881
1069 ... 16881
1070 ... 16881
1071 ... 16881
1073 ... 16881
1075 ... 16881
1076 ... 16881
1078 ... 16881
1079 ... 16881
1090 ... 16881, 17065
1094 ... 16881
1096 ... 16881
1097 ... 16881
1098 ... 16881
1099 ... 16881
1101 ... 16881
1102 ... 16881
1103 ... 16881
1104 ... 16881
1106 ... 16881
1108 ... 16881
1120 ... 16881
1121 ... 16881
1124 ... 17634
1125 ... 16881
1126 ... 16881
1127 ... 16881
1128 ... 16881
1129 ... 16881
1130 ... 16881
1131 ... 16548
1132 ... 16881
1133 ... 15716, 16881
1134 ... 16881, 17070, 17446
1136 ... 16881, 17335
1137 ... 16881
1138 ... 16881

9 CFR

71 ... 15641
83 ... 15290
371 ... 15642

PROPOSED RULES:

203 ... 16556
301–330 ... 15362
327 ... 15800

10 CFR

112 ... 15558

12 CFR

1 ... 15595
211 ... 17162
556 ... 16609

PROPOSED RULES:

220 ... 16629
542 ... 17452
543 ... 17452
545 ... 17452

12 CFR—Continued

Page

PROPOSED RULES—Continued

556 ... 17452
562 ... 17456
567 ... 17456
571 ... 17456
582 ... 17457

13 CFR

101 ... 15452
121 ... 15596

14 CFR

23 ... 17509
39 ... 15290–15292, 15340, 15466, 15467, 15748, 16543, 16860, 16861, 17330, 17509
61 ... 17162
71 ... 15292, 15293, 15341, 15467, 15468, 15596, 15642, 15749, 15786, 15787, 16543, 16861–16863, 17103, 17104, 17164–17166, 17330, 17385, 17509–17511
73 ... 15787, 17104, 17105
75 ... 16863, 17105
91 ... 15697
95 ... 15697
97 ... 15531, 15699, 16610, 17233, 17623
185 ... 16622
298 ... 15293
378 ... 16863
378a ... 16864, 17265
385 ... 15413
389 ... 16869
430 ... 15749, 15750

PROPOSED RULES:

1 ... 16876
21 ... 16876
25 ... 16876
37 ... 16876
39 ... 15845, 17339, 17340, 17526, 17527
71 ... 15298, 15363–15365, 15487, 15488, 15600, 15601, 15659, 15660, 15758–15760, 15805, 15806, 16876–16878, 17114, 17178–17180, 17299, 17340, 17391, 17448, 17527–17528
73 ... 15760, 17115
75 ... 15364, 15365, 15601
91 ... 16876, 17448
103 ... 17449, 17662
105 ... 17448
121 ... 16876
171 ... 16879
218 ... 15299, 17662
224 ... 15661
241 ... 15422, 17528

15 CFR

30 ... 16869
376 ... 15837
602 ... 15787

16 CFR

1 ... 17432
2 ... 17432
3 ... 17432
4 ... 17433
13 ... 15345–15353, 16428–16430, 16593, 17105
15 ... 15643, 15792, 17265, 17329, 17385, 17386, 17622

PROPOSED RULES:

252 ... 15808
501 ... 15366

17 CFR

Page

1 ... 17511
231 ... 16870, 17433
240 ... 15838
241 ... 17433

PROPOSED RULES:

150 ... 15419
230 ... 17033, 17034, 17180
239 ... 17033, 17180
240 ... 17034, 17180, 17343

18 CFR

2 ... 15643, 17387
101 ... 17434
141 ... 17434
154 ... 15643, 16594
157 ... 15643, 17331
201 ... 17434
260 ... 15344, 17434
300 ... 15750
620 ... 15840

PROPOSED RULES:

2 ... 17529
154 ... 16628, 17341
157 ... 17341, 17529

19 CFR

1 ... 15559
8 ... 17331
16 ... 16543

PROPOSED RULES:

1 ... 15713
11 ... 15360

20 CFR

404 ... 15413, 15646, 17519

PROPOSED RULES:

405 ... 15804, 16627, 16628, 17390

21 CFR

1 ... 15354, 15840
19 ... 15555, 15841, 17620
20 ... 17621
29 ... 15842
120 ... 17106, 17266, 17332, 17421, 17620, 17621
121 ... 15295, 15355, 15469, 15793, 15794, 15842, 16544, 17063, 17106, 17332, 17421, 17427
130 ... 17428
133 ... 15645
141 ... 15596
148i ... 15842
149a ... 15295
320 ... 15295

PROPOSED RULES:

16 ... 15486
18 ... 15657
27 ... 16875
120 ... 15658, 17298
128a ... 17176
130 ... 15298
133 ... 17338
191 ... 16557
320 ... 17390

22 CFR

22 ... 15597
41 ... 17232
61 ... 17387

24 CFR

207 ... 17512
213 ... 17513

24 CFR—Continued

Page

220 ... 17514
221 ... 17515
232 ... 17516
236 ... 17516
241 ... 17517
242 ... 15556
1000 ... 17517
1100 ... 17518
1540 ... 16871

25 CFR

34 ... 17520

PROPOSED RULES:

221 ... 15360, 15361

26 CFR

1 ... 15556
151 ... 17106

28 CFR

0 ... 15413, 16594

29 CFR

657 ... 15556
781 ... 15470
788 ... 15794

PROPOSED RULES:

531 ... 15486
1500 ... 15655

31 CFR

100 ... 16427
200 ... 15557
280 ... 15557

32 CFR

60 ... 15296
533 ... 17266
577 ... 15796
806 ... 17062
816 ... 17621
865 ... 17621
874 ... 17621
888c ... 17147
890 ... 17062
1201 ... 17267
1202 ... 17277
1203 ... 17278
1205 ... 17281
1206 ... 17282
1207 ... 17284
1208 ... 17284
1209 ... 17285
1210 ... 17285
1212 ... 17285
1213 ... 17286
1214 ... 17286
1217 ... 17287
1219 ... 17287
1220 ... 17288
1221 ... 17288
1225 ... 17289
1230 ... 17289

32A CFR

OEP (Ch. I):
DMO 3000.1 ... 17232

33 CFR

86 ... 17478
117 ... 15752, 17622
126 ... 17478
144 ... 17479
207 ... 15557, 15797
208 ... 15296, 15646

36 CFR

Page

7 ..... 15414, 16872, 17520

PROPOSED RULES:

7 15419

38 CFR

21 17521

39 CFR

Ch. I 16431
135 16542

41 CFR

5A–2 16595
5A–72 16595
5A–73 16595
6–7 17166
8–1 15752
8–6 15752
8–7 ..... 15470, 15753
8–19 15753
8–52 15754
8–74 15754
8–75 ..... 15470, 15754
12B–1 17332
101–14 16544
101–46 17170
101–47 16545

42 CFR

57 15797
81 ..... 15415, 17333

PROPOSED RULES:

74 ..... 15800, 17338
78 16557
81 ..... 15362, 15562, 15758, 16559, 17390, 17446, 17526

43 CFR

20 15647

PUBLIC LAND ORDERS:

261 (revoked in part by PLO 4706) 15754
640 (revoked by PLO 4721) 17650
881 (see PLO 4706) 15754
1493 (revoked in part by PLO 4696) 15472
1548 (see PLO 4706) 15754
1583 (revoked in part by PLO 4715) 15843
1626 (revoked in part by PLO 4715) 15843
2624 (revoked in part by PLO 4698) 15472
2655 (revoked in part by PLO 4698) 15472
3152 (revoked in part by PLO 4715) 15843
3520 (modified by PLO 4717) 17170
3584 (revoked in part by PLO 4715) 15843
4172 (revoked in part by PLO 4715) 15843
4522 (revoked in part by PLO 4718) 17170
4582 (see PLO 4721) 17650
4592 (corrected by PLO 4713) 15755
4694 (corrected) 15471
4696 15472
4697 15472
4698 15472
4699 15472
4700 15473
4701 15473
4702 15557

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

4703 15557
4704 15557
4705 15598
4706 15754
4707 15755
4708 15755
4709 15755
4710 15755
4711 15755
4712 15842
4713 15843
4714 15843
4715 15843
4716 16622
4717 17170
4718 17170
4719 17170
4720 17333
4721 17650

45 CFR

6 15560
177 17521
205 17522
234 17433
401 16802
402 16819
403 16822
404 16827
405 16836
406 16839
408 16843
409 16844
801 15711

46 CFR

25 17480
30 17480
31 17481
32 17481
33 17481
34 17481
35 17482
42 17482
45 17483
70 17483
72 17483
75 17483
78 17483
90 17484
92 17484
94 17484
96 17484
97 17485
111 17485
146 17485
147 17494
160 17494
161 17495
164 17498
167 17502
175 17502
177 17503
180 17503
184 17503
188 17503
190 17503
192 17503
195 17504
503 15345
510 15345

PROPOSED RULES:

146 17446
502 ..... 15300, 17182
528 17072
536 16880

47 CFR

Page

0 15415
2 15341
15 17171
64 ..... 17107, 17292
73 ..... 17107, 17443, 17444
74 17651
91 ..... 15341, 15342
97 ..... 15343, 15393
203 17294

PROPOSED RULES:

1 17116
2 15366
15 15806
61 17116
67 15602
73 ..... 15602, 15603, 16879, 16880, 17117
74 15422
81 15366
83 15366
85 15366
87 15299
89 15808
91 15808
95 17451

49 CFR

71 ..... 15755, 17333
173 ..... 17522, 17523
174 17524
177 17524
178 17523
180 15473
195 15473
371 ..... 15416, 17388
375 17108
393 15417
1033 ..... 15356, 17334
1048 ..... 15482, 16623, 17062
1204 15483
1222 16871

PROPOSED RULES:

171 17450
173 ..... 15660, 17450
174 17450
175 17450
176 17450
177 17450
180 17450
195 15489
230 15845
371 ..... 15420, 15421, 17115
1047 16559
1048 17459
1056 15719
1134 17037
1201 17117

50 CFR

10 15652
12 15653
28 ..... 15653, 16624, 17173
32 ..... 15296, 15356, 15358, 15558, 15598, 15653, 15756, 15799, 16545, 16546, 16624, 16873, 17109, 17173, 17334, 17445, 17524
33 ..... 15654, 16873, 17232, 17661
280 15416

PROPOSED RULES:

12 16626
32 15298
80 15600
256 16557
279 16874

FEDERAL REGISTER

VOLUME 34 • NUMBER 210

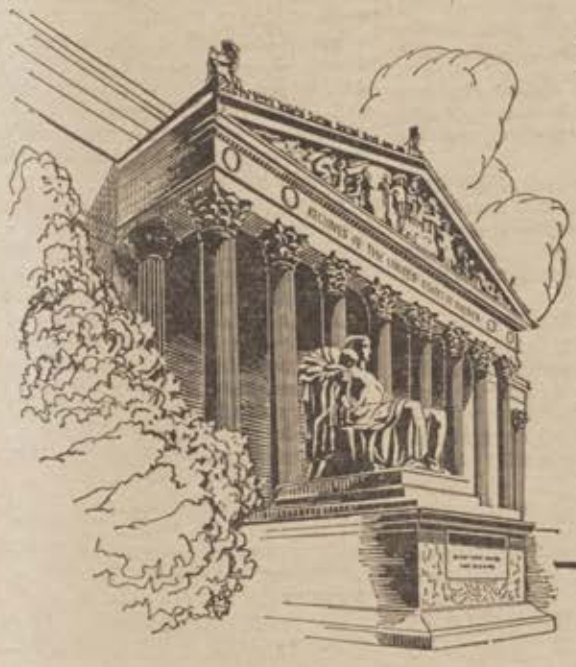
Friday, October 31, 1969 • Washington, D.C.

PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

•



Milk in Oregon-Washington Marketing Area

Decision

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1124]

[Docket No. AO-368]

MILK IN OREGON-WASHINGTON MARKETING AREA

Decision on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Portland, Oreg., on December 3-7, 1968, pursuant to notice thereof issued on November 12, 1968 (33 F.R. 16588), upon a proposed marketing agreement and order regulating the handling of milk in the Oregon-Washington marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 30, 1969 (34 F.R. 12744; F.R. Doc. 69-9092) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision (34 F.R. 12744; F.R. Doc. 69-9092) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under Issue No. 1, "Character of the commerce", the third paragraph is revised.

2. Under Issue No. 2, "The structure of the market and the need for an order", the 14th paragraph is revised.

3. Under Issue No. 3(a)(1), "Marketing area", following the 50th paragraph two paragraphs are added.

4. Under Issue No. 3(a) following the heading "Pool plant definitions," a paragraph is added following the 15th paragraph.

5. Under Issue No. 3(a) following the heading "Producer, diverted milk and producer milk definitions", following the sixth paragraph a paragraph is added.

6. Under Issue No. 3(a) following the heading "Producer-handler definition", the first paragraph is revised, the 15th, 16th, and 17th paragraphs are deleted and four paragraphs are substituted thereat.

7. Under Issue No. 3(b) following the heading, "Fluid milk product", the second paragraph is revised.

8. Under Issue No. 3(b) following the heading "Classification of milk", the third, fourth, 18th, 23d and 31st paragraphs are revised, five additional paragraphs are added following the 23d paragraph, one additional paragraph is added following the 31st paragraph and the 37th paragraph is deleted.

9. Under Issue No. 3(b) following the heading, "Allocation", the ninth paragraph is revised.

10. Under Issue No. 3(c), "class prices", a paragraph is added following the last paragraph thereof.

11. Under Issue No. 3(c) following the heading, "Butterfat differentials", the fourth and fifth paragraphs are revised.

12. Under Issue No. 3(c) following the heading "Location differentials", the third paragraph is deleted and eight paragraphs are substituted thereat. The seventh paragraph is deleted and the sixth and ninth paragraphs are revised.

13. Under Issue No. 3(d) following the heading, "Base and excess plan", the fourth and 27th paragraphs are revised and three paragraphs are added following the 27th paragraph.

14. Under Issue No. 3(d) following the heading "Payments for milk", a paragraph is added following the second paragraph.

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

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

1. *Character of commerce.* The handling of milk in the proposed marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and its products.

The marketing area specified in the proposed order and designated as "the Oregon-Washington marketing area" includes all the territory within 35 contiguous counties and portions of two others. Twenty-six of these counties are in Oregon and the remainder are in Washington.

Of the 1,045 producers participating in the Oregon quota plant, 865 reside in Oregon, 174 reside in Washington, and six reside in California. Approximately 200 additional dairy farmers might become producers under the order. Most of these reside in Washington. There is a possibility that some Idaho dairy farmers also might become producers under the order.

Milk of many of these producers moves in interstate commerce from farm to plant of receipt. The milk of the six California producers is received and processed at a plant located in Klamath Falls, Oreg. Many of the Washington producers ship their milk to plants located in Oregon mainly in and around the city of Portland. Milk of Oregon producers is regularly received by plants located in the State of Washington.

During the season of short production and to a lesser extent throughout the entire year, milk is received from sources in Idaho at plants located in both Oregon and Washington which would be regulated under the order.

Approximately 68 million pounds of milk per month were priced and pooled under the Oregon Milk Audit and Stabilization Law during the period January-October 1968. Of this amount, approximately 18 percent originated on farms located outside the State of Oregon, primarily in the State of Washington.

During the same period an average of about 7 million additional pounds of milk per month were received from out of State sources by plants in Oregon. This milk was not priced or pooled under the Oregon statute.

Substantial quantities of fluid milk products processed and packaged in Oregon plants are distributed on routes in the State of Washington on a regular basis. Likewise, milk processed and packaged in Washington is regularly distributed on routes in those portions of Oregon within the area to be regulated.

At least one Oregon plant to be regulated regularly distributes fluid milk in California, and a California plant has regular route disposition in southern Oregon within the defined marketing area.

There is a plant at Moses Lake, Wash., which, although it is located outside the boundaries of the proposed marketing area, has route disposition within the marketing area. This plant ships substantial quantities of milk to Alaska on a regular basis.

In addition to the regular and substantial flow of fluid milk across State lines in both bulk and packaged form by plants to be regulated, there is a regular movement of manufactured dairy products. Much of the reserve supply of the proposed Oregon-Washington market is manufactured into such products as butter, nonfat dry milk and cheese. These products are produced for sale on the national market where they compete with similar products produced throughout the United States.

2. *The structure of the market and the need for an order.* There are seven dairy farmers' organizations seeking Federal order regulation for the Oregon-Washington marketing area.

The Mayflower Farms, Inc., a cooperative association of dairy farmers, is the

largest single supplier of Grade A milk to handlers on the Oregon-Washington market. Its 430 Grade A producer members represent about 40 percent of the approximately 1,100 Grade A producers presently regulated under the Oregon law (excluding producer-distributors). Milk of these Grade A producer-members is pooled and priced under the Oregon State order.

Three hundred of these member producers are located in Oregon and the remaining 130 reside in Washington, generally within the confines of the marketing area.

The association membership also includes 400 dairy farmers engaged in the production of manufacturing grade milk and 170 who supply manufacturing plants with farm-separated cream.

The association operates fluid milk plants located at Portland, Astoria, Coos Bay, Medford, and Hermiston, Oreg., and at Yakima, Wash., all within the marketing area.

For the 12-month period of November 1967 through October 1968, this association marketed 280 million pounds of Grade A milk (23.3 million pounds, monthly). About 55 percent was disposed of as fluid milk products, 12 percent as cottage cheese, ice cream and related products and the remaining 33 percent was manufactured into Cheddar cheese, butter, and nonfat dry milk.

The association receives Grade A milk in bulk at its six plants and, in addition, delivers to three State institutions and 16 distributing plants located throughout the Oregon-Washington marketing area.

The Tillamook County Creamery Association located at Tillamook, Oreg., represents 320 dairy farmers, 130 of whom are engaged in the production of Grade A milk and 190 of whom produce manufacturing grade milk. Its plant supplies Grade A fluid milk to processing plants in Portland and is engaged in the distribution of Grade A fluid milk and milk products obtained in consumer packages from Portland plants. It does no bottling of its own. Excess Grade A milk and manufacturing grade milk are manufactured at the association's plant into Cheddar cheese and butter.

The Farmers Cooperative Creamery at McMinnville, Oreg., is a cooperative association of dairy framers, 116 of whom are engaged in the production of Grade A milk and 366 engaged in the production of manufacturing grade milk or farm-separated cream. This plant does not bottle but distributes Grade A fluid milk products and ice cream packaged by other handlers whose plants are located at Eugene and McMinnville, Oreg.

The association supplies bulk Grade A milk to distributing plants located in Portland and in other cities located throughout the Willamette River valley area.

The association's plant at McMinnville also provides an outlet for excess Grade A milk not needed for bottling use by other milk processors in the market. Excess Grade A milk and milk of manufacturing grade are processed at this plant into butter, nonfat dry milk, dry whole milk, dry ice cream mix, and ice milk mix.

The Eugene Farmers Creamery is a cooperative association of dairy farmers of whom 72 are engaged in Grade A milk production and 100 engaged in the production of manufacturing grade milk. The association processes and distributes Grade A fluid milk products at its plant in Eugene, Oreg. In addition, it supplies bulk Grade A milk to milk distributing plants located in Eugene, Springfield, Bend, and Redmond, Oreg.

This cooperative's plant supplies the packaged fluid milk and ice cream needs of the Farmers Cooperative Creamery at McMinnville and also delivers to the McMinnville plant its excess Grade A and manufacturing grade skim milk.

Since the hearing was held, the Mount Angel Cooperative Creamery, Mount Angel, Oreg., one of the proponents of the order has ceased operations. Most of the 29 Grade A producer-patrons of this organization are still supplying milk to the Portland market.

The remaining two proponent associations of dairy farmers, the Portland Independent Milk Producers Association, Portland, Oreg., and the Southern Oregon Farm Tanks, Grants Pass, Oreg., are nonprocessing associations of dairy farmers representing 48 and eight Grade A milk producers, respectively. The former association is also the marketing agent for the Oregon Guernsey Milk Producers Association which has as members 11 dairy farmers engaged in the production of Grade A milk. Milk from producer members of these associations is delivered to distributing plants in the market, a number of which are located in Portland. Excess Grade A not utilized by such distributors is diverted to the Farmers Cooperative Creamery at McMinnville.

The seven proponent associations market approximately 75 percent of all the Grade A milk received at plants regulated under the State of Oregon milk marketing program. They also have placed under the Oregon regulation the Grade A milk of member producers that is produced and marketed in Washington.

There are about 70 bottling plants in the area which receive milk from producers or cooperative associations. In addition, there are a large number of persons operating plants who are classified by the State of Oregon as producer-handlers and who also distribute milk in the area. The distribution of the individual producer-handlers varies from a few thousand pounds to as much as a million pounds of milk per month.

There is general agreement among producer interests in the market that marketing conditions in the area are such that an overall system of classification and pricing of milk should be adopted to restore stability and that for such a system to be effective it must be created under Federal authority.

As already noted, the State of Oregon presently administers a milk order program with purposes similar to those which the proponents seek in a Federal milk marketing order.

The State, however, may not enforce minimum prices with respect to milk produced outside Oregon. The Oregon milk marketing program's full effectiveness in recent years has been curtailed because of the inability of enforcement with respect to milk produced outside Oregon. Recognizing this fact, the Milk Audit and Stabilization Division of the Oregon Department of Agriculture supported the proponent cooperatives in seeking Federal regulation.

As noted earlier, there is substantial interchange of milk between the States of Oregon and Washington. Also, certain handlers on the Oregon-Washington market obtain supplemental supplies of Grade A milk from farms located in Idaho.

The distributing handlers doing a major portion of their business in the Oregon-Washington market and receiving all their milk from sources not regulated by the State of Oregon are the Arden Farms and Foremost Foods plants located at Portland, Oreg., and the Standard Dairy with plants located at Portland, Oreg., and Longview, Wash. The Alpenrose Dairy, Portland, Oreg., and the Sunshine Dairy, McMinnville, Oreg., receive a portion of their total Grade A milk supply from unregulated sources.

The prices paid by unregulated distributors for Grade A milk are not directly related to its use. While certain handlers on the Oregon-Washington market obtain milk from Washington and Idaho for fluid use at prices less than the Class I price established by the State of Oregon, others, including the proponent associations, pay classified prices for their milk. Thus, the actual cost of Class I milk to the unregulated handlers is often substantially below the Class I price paid by handlers regulated under the State order with whom they compete and reflects the particular bargaining position of the individual producers or groups of producers from whom they buy. Such unregulated handlers pay their farmers prices which are only slightly higher than the uniform prices paid by closely competing handlers who are regulated under the State order. Inevitably, a heterogeneous cost structure results, leading to price cutting and other disorderly marketing conditions at the expense of the dairy farmers regularly associated with the market.

Milk not regulated under Oregon statute which is purchased by these and other unregulated handlers doing business mainly in the Washington segment of the proposed market consequently is not purchased under a classified price plan designed to insure uniform pricing for all persons similarly situated.

A representative for one of the unregulated handlers located at Portland, Oreg., which does substantial business in the Oregon-Washington market, stated that for October 1968 the plant pay-price to three of its Washington resident producers, supplying 1.9 million pounds of Grade A milk for the month, was $5.41 per hundredweight (3.5 test). The prices (f.o.b. plant) are negotiated, determined on the basis of the prevailing

competition among handlers for supply.

The average price of all milk pooled under the Oregon order for October 1968 was $5.45 and the Class I price was $6.10 per hundredweight for milk of the same butterfat test.

The Chief of the Milk Stabilization Division of the Oregon State Department of Agriculture, in his analysis of marketing problems in the area, testified that certain unregulated handlers on the Oregon-Washington market are able to purchase Class I milk at a price generally about 1 cent per quart (approximately 46.5 cents per hundredweight) less than the Oregon pool Class I price.

This witness pointed out that only handlers with a very high Class I utilization ratio can completely supply their plants with out-of-State nonpool milk. With respect to a plant handler having a high percentage of Grade A milk utilized in the manufacturing use category, his blend price would be lower if all such receipts were pooled under the Oregon order. This is because, under the Oregon Milk Stabilization regulation, an Oregon handler who uses both Oregon pool milk and nonpool milk must purchase his pool milk in proportion to his total plant utilization. This basis of allocating pool and nonpool receipts of a handler under the Oregon statute for classification purposes is commonly referred to as the "equal allocation" regulation.

Several witnesses referred to a study of marketings in the area of milk not pooled under the Oregon statute, made public by the Division of Milk Audit and Stabilization of the Oregon Department of Agriculture. According to this report, unregulated handlers competing with Oregon handlers have a buying advantage of as much as 50 to 60 cents per hundredweight on Class I milk. Such witnesses also contended that a Federal milk marketing agreement or order, therefore, is needed as the only means of assuring stable marketing conditions for dairy farmers, handlers, and the consuming public throughout the defined marketing area.

In view of the above circumstances, adoption of a marketing agreement or order for the Oregon-Washington marketing area will contribute to the improvement of marketing conditions and will tend to effectuate the declared policy of the Act. Price stability and orderly marketing throughout the entire Oregon-Washington marketing area depend upon the adoption of a classified pricing plan based upon audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all such producers of the proceeds from the sale of their milk. This is the principal purpose of a Federal order.

In addition, the procedures required by the Act would afford all interested persons opportunity to take part in determining, through public hearing, what the various provisions of the order should be to insure the orderly marketing of milk on a continuing basis.

3. *Order provisions*—(a) *Scope of regulation.* It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe the marketing area involved, and to specify the persons, plants and milk products to which the applicable provisions of the order relate.

(1) *Marketing area.* The Oregon-Washington marketing area should include all the territory geographically within the 26 Oregon counties, nine Washington counties and those portions of Lewis and Pacific Counties, Wash., listed below:

OREGON COUNTIES

Benton.	Lane.
Clackamas.	Lincoln.
Clatsop.	Linn.
Columbia.	Marion.
Coos.	Morrow.
Deschutes.	Multnomah.
Douglas.	Polk.
Gilliam.	Sherman.
Hood River.	Tillamook.
Jackson.	Umatilla.
Jefferson.	Wasco.
Josephine.	Washington.
Klamath.	Yamhill.

WASHINGTON COUNTIES

Benton.	Skamania.
Clark.	Wahkiakum.
Cowlitz.	Walla Walla.
Franklin.	Yakima.
Klickitat.	

In Lewis County, the town of Vader. In Pacific County, that portion not included in the defined area of Order 125 (Puget Sound, Wash.).

Further, the marketing area should include all piers, docks, and wharves connected therewith and all territory that now, or in the future, is occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments, if any part of such territory is within the designated geographical limits of the marketing area.

The northern sector of the marketing area is bisected by the Columbia River which, for the most part, marks the boundary between Oregon and Washington. This sector of the marketing area includes the tier of Washington and Oregon counties adjacent to the north and south shores of the river, respectively, and extends from the Pacific Ocean to and including the counties of Walla Walla and Umatilla in eastern Washington and Oregon, respectively.

Oregon is divided into two dissimilar sections by the Cascade Mountains which cross the State north to south about 120 miles from the ocean. West of the Cascades and parallel with the seashore is the coast range of mountains.

The two-thirds of the State lying to the east of the Cascade Range, particularly in the central and southern regions is generally sparsely populated. These eastern Oregon regions are not incorporated in the defined marketing area. On the other hand, all the Oregon counties lying astride and west of the Cascade Range are in the defined area, with the exception of Curry County, at the southwestern tip of the State.

Portland, Oreg., the largest population center in the marketing area (372,676 persons),[1] is situated at the confluence of the Columbia and the Willamette rivers. The entire valley area lying between the Cascade and coastal range of mountains, the northern part of which consists of the Willamette River Basin, is an area of intensive farming, including dairy farming. Most of the principal population centers of the State are located in this region, ranging geographically from Portland on the north through Salem, Corvallis, Albany, Eugene, Roseburg, Grants Pass, Medford, and Klamath Falls at the southern extremity of the State.

Located in the coastal area of the marketing area, north to south, are the cities of Astoria, Tillamook, Newport, North Bend, Coos Bay, and Bandon.

The Oregon-Washington marketing area is continguous to the Puget Sound Federal order market on the northwest and has the Inland Empire Federal order market at its extreme northeastern tip. Portland, the market's largest city is located 172 miles (by State highway distance) directly south of Seattle and 354 miles southwest of Spokane, the principal population centers of the respective nearby Federal order markets.

The population of the proposed marketing area is approximately 2.1 million. About 651,685 persons, or 31 percent of this total, reside in the urbanized area of Portland (Multnomah County), Oreg. This urbanized area includes most of the population of Multnomah County, and portions of Clackamas and Washington Counties, Oreg., and Clark County, Wash.

The urbanized area of Eugene (Lane County), Oreg., constitutes the next largest population center in the market: About 95,686 persons reside in the city and in contiguous divisions and subdivisions of Lane County.

Much of the marketing area is rural in nature, in large part due to the mountainous terrain. Of the 37 counties (or portions thereof) included in the area, 19 are classified by the census of population as less than 50 percent urban.

Because of a significant portion of sales of fluid milk products by handlers who would be regulated is in rural areas, and because of the relative density of population immediately surrounding the several cities, the marketing area should be defined, to the extent possible, on the basis of county boundaries.

Grade A milk products sold for fluid consumption throughout the proposed marketing area must be approved by health authorities who are governed by health ordinances, practices, and procedures patterned after the U.S. Public Health Service Grade A recommended milk ordinance. Also, the States of Oregon, Washington, and Idaho have reciprocal agreements with respect to the interstate movement of milk from handler facilities which are approved and

[1] Population data shown throughout these findings are based upon the 1960 Census of Population unless otherwise stated.

rated under the U.S. Public Health Service Interstate Milk Shippers Code. Because of such reciprocal approval of responsible health authorities, there generally is free and unrestricted movement of Grade A milk both in bulk and packaged form among various locations in the market.

The Carnation Milk Co. has two bottling plants located within the proposed marketing area, one at Sunnyside (Yakima County), Wash., and the other at Portland (Multnomah County), Oreg. Both distribute Grade A fluid milk in the proposed marketing area.

Representatives of the Carnation Co. objected to the inclusion of the defined marketing area of the Washington counties of Yakima, Benton, Walla Walla, Franklin, and Klickitat, which they indicated cover, in large part, the primary sales area of its Sunnyside plant. These five counties (referred to throughout this discussion as the "five-county area") are located in Washington east of the Cascade Range.

This handler proposed that in the event the five-county Washington area should be regulated, then an additional six counties where they do business (three in Washington and three in Oregon) also should be included as a part of the defined marketing area. These counties are Asotin, Columbia, and Garfield in Washington, and Baker, Union, and Wallowa in Oregon (i.e., located in the southeastern and northeastern corners of the two States, respectively). Thus, it is the position of Carnation Co. that either all or none of this 11-county area should be regulated.

Controversy over the defined limits of the marketing area centered chiefly on the proponent associations' proposal to include in the marketing area the five-county area, and Carnation's proposal with respect to regulation of the contiguous Washington counties of Asotin, Columbia, and Garfield, and the Oregon counties of Baker, Union, and Wallowa.

A witness testifying on behalf of the Carnation Co. stated that Klickitat County is served from its Portland, Oreg., plant. Sales in the counties of Benton, Franklin, Walla Walla, Columbia, and Garfield account for almost half of the Sunnyside plant's total Class I distribution. Milk sold by Carnation in the remainder of the 11-county area originates at the Sunnyside plant. Asotin County, Wash., and Wallowa County, Oreg., are not currently being served by Carnation although it was doing business in the two counties until recently.

There are seven other known bottling handlers whose plants are located in the five-county area whose business is more than local in character. There are no indicated bottling plants located in the three Washington and three Oregon counties conditionally proposed by Carnation to be regulated.

In addition to Carnation's Sunnyside (Yakima County) plant, there is the Tomlinson Dairy, Walla Walla; the Yakima City Creamery; a Mayflower Farms plant located at Yakima (Yakima County), Washington; the Reesman's Dairy, Toppenish (Yakima County); Twin City Creamery Co., Kennewick (Benton County); College Dairy, College Place (Walla Walla County); and Hulburt Dairy, a producer-distributor type operation located at Kennewick, Wash. The latter four handlers were not represented at the hearing. Their sales areas, however, range from several to all of the five counties of Yakima, Klickitat, Benton, Franklin, and Walla Walla.

The Tomlinson Dairy, located at Walla Walla (Walla Walla County), Wash., is a proprietary bottling operation. This handler receives his Grade A milk supply (about 70 percent) from nine producers, and supplementary milk (about 30 percent), for the most part during the school year, from a cooperative located at Meridian, Idaho. About 97 percent of the plant utilization is Class I.

The regular sales area of this plant includes the Washington counties of Benton, Columbia, Franklin, and Walla Walla. He expressed the necessity of regulating Asotin and Garfield counties as well as the area where he does business, or leaving it entirely unregulated if his operations are not to be unduly disadvantaged.

From 40 to 50 percent of Tomlinson's Grade A milk is distributed in Benton and Franklin Counties, Wash. This handler, however, is not currently selling milk in either Asotin or Garfield Counties although he has had sales in both counties in the past. Occasional sales are made in Yakima County, Wash., and Umatilla, Union, and Baker Counties, Oreg.

The Yakima City Creamery is a proprietary bottling and manufacturing plant located at Yakima, Wash. This handler receives his Grade A milk supply from 23 producers and distributes fluid milk products in Yakima and Benton Counties and, through a vendor, in Klickitat County. This handler stated that he neither supports nor opposes Federal regulation for his area.

Certain other handlers and producer groups offered testimony with respect to this northeastern segment of the proposed area under discussion.

A witness for Arden Farms contended that the Washington counties of Yakima, Benton, and Walla Walla are not an integral part of the Oregon-Washington marketing area and their regulation would pose the threat of encouraging greater Grade A milk production solely for use in manufacture-valued milk products.

The Arden Farms plant, located at Moses Lake (Grant County), Wash., is a bottling and manufacturing operation from which some Class I distribution (about 17 percent) is made in a portion of the marketing area proposed by the order proponents and as here adopted.

Of the total receipts at this plant, approximately 27 percent is milk which is pooled under the Inland Empire Federal order.

The proportion of total Class I sales in the Washington counties of Garfield, Columbia, Benton, Franklin, Yakima, and Walla Walla estimated to originate at the Moses Lake plant range from a low of 3 percent in Walla Walla County to highs of 20 and 30 percent in Columbia and Garfield Counties, respectively.

The Central Washington Jersey Milk Pool, Sunnyside, Wash., supplies some Grade A milk to the Moses Lake plant. This association also is opposed to regulation of the five-county area and the Washington counties of Grant, Asotin, Garfield, and Columbia. This producer group, and the Portland Independent Milk Producers Association (one of the order proponent associations), expressed concern that regulation of this area could result in the pooling of increased Grade A milk for manufacturing use.

It is concluded that the Washington counties of Yakima, Klickitat, Benton, Franklin, and Walla Walla are an integral part of the Oregon-Washington market and should be included in the defined marketing area.

As noted earlier, the distribution from plants closely associated with the Oregon-Washington market and regulated under Oregon law covers a wide geographic area and there is substantial overlapping of handler sales areas. The distribution routes from plants located in and near Portland, Oreg., for example, extend into the proposed Washington counties which are situated both to the west and east of the Cascades. Such routes overlap with sales routes of plants located within the controverted five-county area.

Similarly, there is an intertwining of route distribution of plants located in the five-county area with those of distributors located in contiguous Oregon counties to the south, now a part of the Oregon State regulated market and proposed herewith to be included in the Oregon-Washington marketing area.

Mayflower Farms distributes fluid milk products on routes in the five-county area from its plants located at Portland and Hermiston, Oreg. Fluid milk products are distributed also from its Yakima plant generally throughout the five-county area as well as in contiguous Oregon counties to the south. There is also a regular exchange of milk between the Mayflower Farms plant at Portland and its plants at Hermiston and Yakima. The association's branch distribution facilities located at Hermiston, Oreg., and at Kennewick, Walla Walla, Grandview, and Yakima, Wash., account for about 20 percent of the association's total Class I distribution under the State of Oregon order.

Distributing handlers regulated under Oregon law or under one of the nearby Federal milk orders (Puget Sound or Inland Empire) account for about 80 percent of the volume of fluid milk products sold in Klickitat County. About 30 percent originates from Carnation's Portland plant and 40 percent from the three plants of Mayflower Farms located at Portland and Hermiston, Oreg., and Yakima, Wash. Most of the remaining distribution is made by other handlers who would be subject to regulation under the proposed order.

The Mayflower Portland and Yakima plants together with a handler regulated under the Puget Sound order share about 40 percent of the total sales in Yakima County. About 20 percent of the total sales volume in this county is distributed by the Yakima City Creamery, the only other large bottling plant located in the city of Yakima. Other persons who would be subject to regulation if the order were issued account for the remaining sales in Yakima County.

Distribution of fluid milk products in Benton, Franklin, and Walla Walla Counties by Mayflower Farms, the Carnation's plant at Sunnyside, the Yakima City Creamery and to some extent from a Seattle regulated plant, is intertwined with distribution by Tomlinson Dairy Farms, the Twin City Creamery, Hulburt Dairies, and College Dairy, the latter four plants being located in this three-county area.

The only other distributor located outside the five-county area and having significant sales therein is the Arden's plant at Moses Lake (Grant County), Wash. Of the eight plants located within the five-county area (listed earlier in this discussion) the Carnation's Sunnyside plant and Tomlinson's at Walla Walla are known to distribute fluid milk products outside the marketing area here defined. Such distribution is limited generally to the Washington counties of Garfield and Columbia, and to the Oregon counties of Union, Baker, and Wallowa. It was not shown that such sales are substantial with respect to either plant.

It was not established that the inclusion of Asotin, Columbia, and Garfield Counties is necessary to insure orderly marketing. There are no plants located in these counties which are very sparsely populated. The only communities with population in excess of 2,000 people are Dayton (2,913) which is a few miles from the proposed boundary and Clarkston (6,209) which is on the west bank of the Snake River at a point where it forms the border between Washington and Idaho.

If any Idaho milk is disposed of in these counties at the present time, it is confined to the area in Asotin County adjacent to the city of Clarkston. The remainder of the sales in these counties are made by handlers who will be fully regulated under the proposed order, and by plants regulated under the Inland Empire order. In view of the sparse population and the insignificant volume of milk involved, it is concluded that the Washington counties of Asotin, Columbia, and Garfield should not be included in the marketing area.

Proponents of a proposal to include Grant County, Wash., in the defined marketing area offered no testimony or evidence in its support. Testimony of other producer and handler witnesses generally was opposed to its regulation. Its inclusion in the area does not warrant further consideration at this time.

The three Oregon counties of Baker, Union, and Wallowa are each very sparsely populated. They are primarily the sales area of handlers associated with other (Idaho) markets.

The Meadow Gold Dairy, a fluid milk plant located at Boise, Idaho (a division of Beatrice Foods Co.), is estimated to bottle and distribute (directly and through vendors) 80 percent of the total volume of milk sold in Wallowa, 56–60 percent in Baker, and 50–55 percent in Union County. This handler testified in opposition to regulation of the three Oregon counties.

The Carnation Co., proponent of regulation for the three eastern Oregon counties, is shown to distribute from its Sunnyside plant an estimated 25 to 35 percent of the total sales volume in Baker County, and 15 percent in Union. Its sales in Wallowa County ceased within the last year.

It is concluded, therefore, that the Oregon counties of Baker, Union, and Wallowa should not be included in the marketing area. Total sales in the these counties are insignificant and in none of them do handlers, who would otherwise be regulated, dispose of as much as half of the fluid milk products sold therein. Their inclusion would result in at least partial, and perhaps full, regulation of the Boise plant whose primary sales area is in Idaho and whose only competition with handlers who would be regulated by the order occurs in these counties.

A witness testifying on behalf of both a fluid milk plant located at Klamath Falls (Klamath County), Oreg., and a cooperative association of 18 Grade A producers supplying milk thereto supported the inclusion of Klamath County in the marketing area. A substantial majority of the fluid milk sales in Klamath County are made by the plant at Klamath Falls and by other handlers who would be regulated by the order. The remaining disposition originates at a plant located at Weed (Siskiyou County), Calif.

It was the testimony of this witness that the Klamath Falls plant would be placed at a serious disadvantage in competing with the Weed plant if Klamath County were not included in the marketing area, thus insuring at least partial regulation of the Weed plant. It is possible that the volume of milk sold in Klamath County by the Weed plant is sufficient to bring it under full regulation by the order. Since its principal competitor in California is the plant at Klamath Falls, full regulation would not materially affect the competitive situation of the Weed plant with respect to its California sales.

It is concluded that Klamath County is an integral part of the Oregon-Washington market and should be included therein. No one expressed opposition to its inclusion.

The hearing notice contained a handler proposal to include also the county of Curry in Oregon. Curry County is located at the southwestern tip of the State and is sparsely populated. The city of Brookings with a population of 2,637 is its largest consuming center. Proponent handler was not represented at the hearing and there was no support on the record for its inclusion in the regulated area. Testimony related to this area was generally in opposition to its regulation. There is insufficient evidence on which to include it at this time.

Several interested parties excepted to the inclusion of one or more of the Washington counties of Benton, Franklin, Klickitat, Walla Walla, and Yakima, and the Oregon counties of Sherman, Gilliam, Morrow, and Umatilla. Some argued that these counties did not have sufficient association with the Portland metropolitan area to be considered a part of the same marketing area. Some producer representatives opposed their inclusion on the grounds that the potential for milk production in the Columbia Basin counties is such that the inclusion of these counties in the marketing area might encourage a substantial increase in production which would lower the overall returns of producers supplying the Portland market. On the other hand, the exceptions of some producers supplying handlers in the above Washington counties stated that production and sales in these counties were in good balance and that inclusion of the area in the proposed marketing area would result in a lowering of their returns if their milk were pooled with that of producers shipping to the Portland metropolitan area.

As noted above, there is a close relationship between Columbia River counties in both Washington and Oregon and the metropolitan Portland-Vancouver area. The arguments set forth in the exceptions are not persuasive of the appropriateness of deleting any of these counties from the marketing area. Hence these exceptions are overruled.

A question could arise in the operation of the order as to whether piers, docks, wharves, and any territory occupied by Government (municipal, State, or Federal) reservations, installations, institutions or similar establishments located within the marketing area shall be considered as a part thereof. Such facilities constitute regular outlets for milk of handlers who would be regulated. So there will be no doubt as to the point of delivery of products disposed of to such an installation which may straddle a county boundary, the entire area encompassed by such a facility is made a part of the marketing area.

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

Nevertheless, all producer milk received at regulated plants must be classified and priced under the order regardless of whether it is disposed of inside or outside the marketing area. Otherwise,

the effect of the order would be nullified and the orderly marketing process would be jeopardized.

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

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

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area. Official notice was taken at the hearing of the June 19, 1964, decision (29 F.R. 9213) supporting amendments to several orders, including orders effective in the Western States. The conclusions of this decision are adopted herein as applicable to marketing conditions in the Oregon-Washington marketing area.

The operator of the partially regulated plant is afforded the options of (1) paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

(2) *Milk to be priced and pooled.* The milk which is eligible for pooling under the order should be that which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants substantially engaged in serving the fluid needs of the order market.

It is concluded elsewhere in this decision that a marketwide system of pooling proceeds for Grade A milk received from dairy farmers at pool plants is essential for the promotion of efficient and orderly marketing of milk in the marketing area.

It is also concluded that delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing and pooling provisions of the order. It must necessarily apply uniformly to all plants.

The standards for pool participation are discussed below in connection with the definition of a pool plant.

Any plant regardless of its location should have equal opportunity to comply with the standards of regulation and have its producers share in the available Class I sales. Whether the plants and producers choose to supply the market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs and alternative outlets.

The specific standards of performance which may be used to determine which plants and what milk constitute the regular sources of supply, and therefore should be fully subject to regulation, may be identified by appropriate definition of the terms "route," "distributing plant," "supply plant," "pool plant," "nonpool plant," "handler," "producer," "producer-handler," "producer milk," and "other source milk."

Plant definitions. Definitions of the various types of plants to be regulated are needed to assist in identifying the particular operations which are to be subject to regulation and to simplify the drafting of the other order provisions. Under each of the plant definitions herein provided, all the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk and milk products, are considered as operations of a plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another tank truck, or as a distribution depot for storage of packaged fluid milk products in transit for route disposition, should not be considered to constitute a plant.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards are provided. A "distributing plant" under the order would include both a plant that is approved by an appropriate health authority for the processing or packaging of Grade A fluid milk products and has route disposition in the marketing area during the month, and a plant which has route disposition of filled milk within the marketing area during the month. The term supply plant would include both plants approved by an appropriate health authority which supply Grade A milk to distributing plants and plants which supply filled milk to distributing plants.

Route definition. To assist in the identification of those plants which are to be subject to full regulation a definition of "route distribution" is provided.

"Route disposition" means the delivery of any fluid milk product classified under the order as Class I to retail or wholesale outlets other than a delivery to another plant or to a distribution point.

Fluid milk products may be moved from a milk plant to a facility such as a warehouse, loading station, storage plant or other transfer point on the way to a wholesale or retail outlet. The distribution from such latter point would be considered as a route from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

Disposition by a vendor is treated as route disposition of the plant at which the milk was processed and packaged.

The order should make it clear that packaged products which are classified as Class I when transferred from a distributing plant to a pool distributing plant shall be considered route disposition from the transferor plant, rather than from the transferee plant. In other words, the second plant would be considered to be operating as a vendor for the plant of origin with respect to such disposition. There is a substantial exchange of bottled milk among plants, particularly the cooperative association plants. Since some of these plants dispose of a large percentage of their bottled milk to other cooperative associations which distribute it, this provision will assist to insure the continued pool plant status of the plants in which the milk is bottled.

Pool plant definitions. A distributing plant would qualify as a pool plant under this order in any month in which (1) at least 30 percent of the total receipts of Grade A milk at such plant (exclusive of receipts of packaged fluid milk products from other distributing pool plants and milk received by diversion from other pool plants or from other order plants) are route disposition, and (2) at least 15 percent of the total Grade A receipts at the plant is route disposition in the marketing area. These requirements are designed to exclude from the pool those plants which have only an incidental association with the market. Any plant with 15 percent of its Grade A milk as route disposition in the marketing area would have an effect on this market warranting full pooling.

In applying the pool plant provisions, if a portion of the plant does not have Grade A approval for receiving, processing, or packaging fluid milk products and is physically separated from the Grade A portion of the plant, such portion should not be considered a part of the pool plant. A number of the plants which will be pool plants receive milk of manufacturing grade from dairy farmers. Only the Grade A receipts would be considered as received from producers under the order.

The performance standards set forth above will permit the inclusion in the market pool of the regular supply of producer milk for fluid use in the defined marketing area. Many of these plants are located in a region of heavy milk production relative to population. Hence, the opportunity for making fluid sales locally is limited. Only about 60 percent of the producer milk which would be regulated is now used in Class I on an annual average. There are variations in the percentages of Class I use among plants and month-to-month differences in the same plants. Hence, the minimum percentage of Class I use which each distributing plant must maintain to be pooled should be fixed low enough to accommodate the operation of all those plants which are the regular source of supply for the market.

In the case of a handler operating more than one distributing plant, it should be provided that the combined receipts and Class I disposition of all such plants may be used as the basis for meeting the minimum 30-percent requirement. This was requested to permit more efficient utilization of plant facilities. To prevent inclusion in the market-wide pool of a plant whose primary association is with another market, however, it is necessary that each plant in such a system continue to meet the requirement that at least 15 percent of its total Grade A receipts be route disposition within the marketing area during the month.

The definitions of "producer" and "pool plant" are needed to identify and qualify for pooling the milk approved for fluid use and regularly supplied for such purpose. The record is not clear that similar health regulations have been established for the sources of filled milk. The order provisions should not result in pooling milk from unapproved and intermittent sources with milk of farmers regularly supplying milk approved for the fluid market. Therefore, the determination of whether a plant is qualified for pooling should not depend in any way on its disposition of filled milk in the marketing area. Hence, receipts and disposition of filled milk are excluded in the determination as to whether a plant qualifies for pooling.

Any plant which has route disposition of less than an average of 300 pounds per day in the marketing area during the month should be exempt from regulation except for the filing of reports. A plant with such limited distribution is not likely to have a significant disturbing influence in the market. The administrative expense involved in verifying the receipts and utilization and testing the butterfat content of the receipts and disposition of such a small operation would far outweigh any benefits accruing from its regulation.

A distributing plant meeting the pooling requirements of more than one order should in general be regulated under the order covering the area in which it has the greater proportion of its distribution. However, recognition should be given to the adverse effects of any temporary shifting to and from another market from month to month by a plant regularly associated with the Oregon-Washington market. A handler operating a pool distributing plant which has been subject to regulation under this order, and which continues to meet the pool plant standards provided herein, generally should not become subject to another order unless it has more route disposition in such other marketing area than in the Oregon-Washington marketing area for 3 consecutive months. This will afford the handler reasonable notice as to the time when regulation of his plant may shift from one order to another and will afford him the opportunity to make adjustments in his business if he desires to do so.

If, nevertheless, the provisions of the other order require such plant to be pooled thereunder, the plant should be exempt from regulation under this order to prevent duplicate regulation. In order that the market administrator may be fully apprised of the status of such a plant, however, the operator thereof should be required to make reports of the total receipts and utilization or disposition of skim milk and butterfat at the plant to the market administrator at such time and in such manner as the market administrator may require and he must allow verification of such reports by the market administrator.

Provision should also be made to exempt from regulation under this order a distributing plant under another order which, for 1 or 2 months, may have greater route disposition in this marketing area than in the area of the order to which it has been subject to regulation if such other order would continue to regulate.

A supply plant would qualify as a pool plant under this order in any month during which 30 percent or more of its receipts of Grade A milk from dairy farmers is shipped as fluid milk products to a pool distributing plant.

The performance standards for pool supply plants recognize the dual function of the supply plants in the market which is to ship milk to distributing plants when it is needed for fluid use and to manufacture the excess when it is not needed by distributing plants.

These shipping requirements will make it possible for those supply plants which have been a regular source of supply for the distributing plants in the market to achieve pool status. They will exclude from pooling specialized manufacturing plants which might make token shipments to pool distributing plants. Higher standards could result in requiring plants which have had a long association with the fluid market to engage in unnecessary and uneconomical transfers of milk to meet such higher standards.

Demand for milk from supply plants is usually greatest during the season of low production. During the months of flush production the direct farm supply of milk received at a pool distributing plant may be sufficient to supply its Class I outlets. During this part of the year it would be more economical to leave the milk received at supply plants in the country for manufacture into dairy products at such plants and use the milk received directly at distributing plants for Class I use.

The performance provisions should not force milk to be transported to distributing plants in the months of seasonally high production in order to maintain the eligibility of supply plants to pool.

Any supply plant, therefore, which meets the 30 percent shipping requirement as described for each of the months of August through February would be granted pool status during the following months of March through July without specified shipments. Such pool status would be automatic unless the operator of such plant notifies the market administrator in writing before the first day of any such month that he desires to withdraw his supply plant from pooling. The plant thereafter would be a nonpool plant until it again met the shipping requirement set forth above.

One exceptor suggested deleting August as a month in which a supply plant must meet the shipping requirements to qualify for automatic pool status. All other parties operating supply plants indicated their support of the August–February period. Accordingly, no change is made.

The standards adopted herein for the pooling of distributing and supply plants are deemed to provide a reasonable and appropriate measure as to whether a plant is sufficiently identified with the market without, at the same time, excluding from pool participation handlers whose plants have been a regular and dependable source of fluid milk supply for the market.

If, in any month, a supply plant meets the requirements for pool status under more than one order, it is necessary to specify under which order the plant is to be regulated. Accordingly, if a supply plant meets the pooling requirements of this order and another Federal order, it will not be a pool plant under this order unless the volume of its Grade A receipts disposed of to pool distributing plants regulated by this order is greater than the volume disposed of to distributing plants pooled under such other order and it is not regulated under the other order.

In some markets reload points under the bulk handling method serve a function similar to that of a supply plant. The extent to which truck reloading facilities are now employed in moving bulk milk to this market is not clear from the record. In the absence of specific marketing data concerning reload points, it is concluded that a definition of reload point should not be included in the order.

Such a definition and its application to pricing, l cation differentials, and performance requirements may be considered at some future time if it appears that such a provision would facilitate the orderly marketing of milk under the order.

Nonpool plants. A plant which supplies fluid milk to the market but in a lesser volume than that required to qualify as a pool plant under the standards set forth herein would be a nonpool plant. The term nonpool plant is further broken down to define some categories, such as "other order plant," "producer-handler plant," "exempt plant," "partially regulated distributing plant," and "unregulated supply plant." These terms are self-explanatory.

Handler definition. The main impact of regulation under an order is on handlers. As herein provided, the "handler" definition includes (a) any person (including a cooperative association) in his capacity as the operator of one or more pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool distributing plant to a nonpool plant for its account; (d) a cooperative association with respect to its member producers' milk delivered in a tank truck owned, operated by, or under contract to the association from the farm to a pool plant of another handler; (e) a person in his capacity as the operator of an other order plant; (f) a producer handler; and (g) any person in his capacity as the operator of an exempt plant.

Designating as handlers the operators of the various types of plants that may be associated with the market is necessary so that the market administrator may require of them the reports to determine the regulatory status of the plants and the extent of their obligations to the producer-settlement fund.

The record is not clear whether there is any governmental agency or institution (Federal, State, county, or municipal) which disposes of fluid milk products solely for use on its own premises or to its own facilities. Any such institution should be exempt from regulation except for the filing of reports when requested to do so by the market administrator.

While such an exempt institution would have no obligation to report regularly to the market administrator, the order should provide that if milk is purchased from a pool plant by such an institution, such sales by the pool plant will be classified as Class I. Any disposition of milk by such an institution to pool plants should be classified as Class III.

Milk which would be surplus to the fluid requirements of such institutions would not be a source of supply which could be depended upon to fulfill the regular requirements of the market. It would bear the same relationship to the marketwide pool as does the surplus of producer-handlers, and it should be allocated in the same manner as a receipt from a producer-handler. Accordingly, milk received from such institutions should receive a Class III classification.

Cooperative associations whose members are suppliers of milk for the market here under consideration generally assume the responsibility of balancing their buying handlers' supplies with such handlers' needs for fluid milk. Much milk not needed for fluid uses generally can be most economically handled by diversion directly to manufacturing plants. To facilitate such handling, a cooperative is accorded handler status for milk which it causes to be diverted to nonpool plants for its account.

When milk is picked up at the farm in a tank truck owned, operated by, or under contract to a cooperative association, and milk of several farmers is commingled in one load, it is the cooperative association that verifies the weight and butterfat content of the milk of each producer. Handlers who receive the milk have no control over and generally take no part in checking the weights and butterfat tests of milk at the farm. In some instances, handlers may not even know the identity of the producers from whom their milk is received. The cooperative association, therefore, should be required to report to the market administrator the quantity of milk received from each producer. The association should be responsible for obtaining farm samples of the milk of each producer and for the testing of such samples.

A cooperative association which assumes the responsibility for the collection of milk at the farm in tank trucks and for the delivery of such milk to pool plants should be defined as the handler of such milk for the purpose of reporting the farm weights and tests of the milk received from producers and the quantities delivered to pool plants. In addition, the association should be accountable to the producer-settlement fund for any difference in the quantities of milk received from producers, based on farm measurements, and the quantities of milk which purchasing handlers report as received at their plants from the association. This is necessary to assure that cooperative associations, like all other handlers, account for all milk received from producers. The association would also account to the producer-settlement fund and pay the administrative assessment on any quantity of milk resulting from a difference between milk received from farms and that delivered to pool plants.

The milk received by a pool plant from the cooperative association as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual non-member producer.

Producer, diverted milk, and producer milk definitions. The term "producer" should include dairy farmers who regularly deliver Grade A milk to plants which are supplying fluid milk to the marketing area in the proportions specified in the pool plant standards adopted herein. Accordingly, the term "producer" distinguishes between farmers who meet the sanitary requirements for the production of Grade A milk and other dairy farmers whose milk may be qualified only for use in the manufacture of dairy products.

The term "producer" should not include a person with respect to milk diverted to a pool plant from another order plant if the operator of both the diverting plant and the pool plant of receipt report such milk as diverted and have requested Class III classification in the reports of receipts and utilization filed with their respective market administrators. This will facilitate the handling of reserve supplies of all order markets in the Northwest without burdening one market with the surplus production of another.

"Producer milk" should be defined to include all skim milk and butterfat in Grade A milk received at a pool plant directly from a dairy farmer or from a cooperative association in its capacity as a handler. Producer milk would also include milk diverted under certain conditions from a pool plant to a nonpool plant by either a handler operating a pool plant or by a cooperative in its capacity as a handler diverting milk for its account. This definition will facilitate application of the various order provisions by specifying that milk for which each handler shall be responsible for paying the class prices established by the order according to his use of milk.

Although a producer establishes his affiliation with the market through delivery of milk to a pool plant, his milk occasionally may not be needed at pool plants. This is due to the day-to-day and seasonal variation in both production and sales. The variation in day-to-day sales is influenced in large part by the fact that most bottling operations are not conducted on a 7-day-a-week basis. Such milk can sometimes be used efficiently by diverting it directly from the farm to a nonpool manufacturing plant. In such cases the movement of such milk to a nonpool plant should be facilitated.

The order should provide that a dairy farmer may retain producer status under certain conditions with respect to his Grade A milk diverted to a nonpool plant for the account of a handler. For the months of March through July when production is heaviest, handlers should be permitted to divert to nonpool plants without limit the milk normally received from producers who are not members of a cooperative association which is diverting member milk in the same month. In all other months the amount which may be diverted should be limited to a quantity not greater than that received at pool plants.

Likewise, a cooperative association should be permitted to divert to nonpool plants member producer milk without limit during the months of March through July, and in other months up to an amount equal to the volume of member producer milk physically received at pool plants. However, producer status

with respect to a dairy farmer whose milk is so diverted during the months of August through February would be contingent also upon the receipt of his milk at a pool plant on at least 3 days during the month. This will assure that the individual producer continues to make his milk available to the fluid milk market.

In order to prevent the association with the market-wide pool of dairy farmers whose milk is acquired solely for diversion to nonpool manufacturing plants during the period of unlimited diversion, the diversion privilege should apply only to the milk of those dairy farmers who have previously attained producer status through shipment of their milk to a pool plant.

The percentage basis for computing limits on milk diversions will provide the flexibility needed by cooperatives and pool handlers to serve the market efficiently. It will not affect the pool adversely.

Should milk receipts from dairy farmers be diverted in excess of the limit set forth herein, the diverting handler must specify the dairy farmers whose milk was overdiverted and all of the milk of such dairy farmers not actually received at a pool plant during the month shall not be producer milk in such month.

Should the diverting handler fail or refuse to designate which producers' milk was overdiverted, all milk diverted by the handler during the month shall not be producer milk in such month.

Milk diverted to a nonpool plant will be considered as received by the diverting handler at the location of the plant to which diverted, for purposes of pricing such milk.

In order to preclude duplicate regulation of milk, provisions should be made for excluding as producers, persons whose milk is diverted to a plant at which such milk is subject to the price and payment provisions of any other order.

Under no circumstances would a delivery of producer milk from the farm to the plant of a producer-handler or an exempt plant be considered as "diverted milk".

To facilitate administration of the order and reduce bookkeeping, it is provided that milk which is caused by a handler (either cooperative or proprietary) to be delivered from the farm to the pool plant of another handler for Class III use may be treated as diverted milk if it is so reported by both handlers. This will permit the diverting handler to maintain all the milk of the producers involved on his producer payroll for the month and the transaction would be handled as though it were an interhandler transfer. Otherwise, each handler would be accountable to the pool for that portion of the producer's milk which was received at his plant.

Producer-handler definition. The term "producer-handler" should apply to any person who both produces milk on his own farm and operates a plant from which fluid milk products are distributed in the marketing area and who receives or acquires for distribution no milk or milk products from any source other than receipts from pool plants within the limits prescribed herein.

The producer-handler maintains control of his own milk from its source at the farm until its ultimate disposition. When an individual operates a dairy farm and a fluid milk business in such manner, it has not been necessary to require him to account for milk produced on his own farm at a particular minimum price. The producer-handler assumes the burden of maintaining the necessary reserve supply of milk associated with his fluid milk operations and of disposing of any daily or seasonal surpluses he may produce.

The extent of competition of producer-handlers with regulated handlers in this market makes it appropriate that exemption from pooling and pricing be contingent upon his meeting certain requirements. Such requirements are necessary to assure that his sales of milk will not have a disruptive effect on the orderly marketing of milk in the regulated market.

The definition of a producer-handler under this order varies from that of the present Oregon regulation. Under the latter such a person is permitted to purchase virtually unlimited quantities of milk from Oregon regulated plants or directly from the farms of dairy farmers who are members of a cooperative association without losing his status as a producer-handler. Such purchases are classified and priced as Class I under the Oregon law and the selling handler is required to account to the Oregon pool for such sales as Class I milk. Since the producer-handler has a sales quota under Oregon law which he cannot exceed without reimbursing the Oregon pool, he is not in a position to use such milk to secure Class I sales which would otherwise accrue to the dairy farmers in the marketwide pool.

Another feature of the Oregon regulation which differs from a Federal order is that which permits a producer-handler to bottle within certain limits, the milk of other producer-handlers.

The Oregon law, moreover, completely exempts from regulation any producer-handler who has less than 26 cows and who purchases no milk in either bulk or packaged form.

Under the order contained herein a producer-handler is not permitted to receive fluid milk products in bulk from any source except his own farm production. Since there are no sales quotas under the Federal order, to permit a producer-handler to supplement his own production with unlimited receipts from other producers whenever his Class I sales exceed his own production would result in the pool producers bearing the entire burden of the surplus associated with such milk.

Neither is a producer-handler permitted to bottle milk for another producer-handler. Were this to happen both producer-handlers automatically would lose such status and would become fully regulated handlers and pool producers. The receipt of milk at the bottling plant would be considered a receipt from a producer and the milk packaged and sold would be considered as sold by a handler.

As long as he retains his exempt status, the only obligation imposed on a producer-handler by the order is to file periodic reports with the market administrator and permit the verification of same. The purpose of these reports is to permit the market administrator to verify that the operation continues to be a bona fide producer-handler. Such reports are necessary regardless of the size of the producer-handler.

Under the order contained herein, a producer-handler is not permitted to receive fluid milk products in bulk from any source except his own farm production. He is permitted to purchase fluid milk products (other than whole milk) in consumer packages from pool plants during the month in an amount that does not exceed a daily average of 100 pounds.

Some orders permit producer-handlers to receive small quantities of milk in bulk from pool plants to take care of emergencies that may arise. The testimony of several producer-handlers who testified at the hearing was that such an allowance probably was not necessary and that a person to enjoy producer-handler status should rely entirely on milk of his own production. At least one of the persons who so testified (a producer-handler as defined under the Oregon statute) purchases, however, substantial quantities of milk at the present time to augment his own production.

Although not permitted to purchase fluid milk products in bulk, producer-handlers should be enabled to purchase a limited quantity of fluid milk products (other than whole milk) in packaged form from pool plants. There are a great many small producer-handlers in the Oregon-Washington marketing area. Because of their small volumes of milk, it might not be feasible for many of them to process fluid milk products other than bottled milk. Permitting them to purchase from pool plants in packaged form up to 100 pounds per day of such items as flavored milk and milk drinks, buttermilk, creams of varying tests, etc., should be sufficient to accommodate their needs in this respect. The limit of 100 pounds per day will assure that the producer-handler does not rely on such packaged products to balance the variation in his own production.

These provisions do not preclude a producer-handler from receiving and distributing nonfluid milk products such as butter, cheese, ice cream etc., which may be purchased from other sources. They would, however, prevent him from receiving nonfat milk solids for reconstitution for use as skim milk in beverages of any sort, including filled milk.

Receipts of milk at a pool plant from producer-handlers should be considered as receipts of other source milk. Otherwise, producer-handlers who do not share their own Class I sales by pooling would share in the Class I sales accruing to producers in the market. At the same time the producer-handler would not be

bearing his proper share of the reserve supplies associated with his Class I sales.

The recommended decision contained a provision whereby a producer-handler could exchange packaged milk with a pool plant and not lose his exempt status if his receipts from the pool plant did not exceed the quantity transferred to the pool plant. Similarly the receipts would be subtracted from the Class I utilization of the pool handler in an amount equal to the transfer to the producer-handler.

The handler whose operation this provision was designed to accommodate excepted to it, indicating it was his desire to be able to receive unlimited quantities of packaged milk from the producer-handler at a point outside his plant without having such milk classified as Class III and without having to account to the pool for such receipts. The exception makes no reference to offsetting transfers to the plant of the producer-handler.

To permit a producer-handler to dispose of unlimited quantities of milk to a pool handler for Class I use would make it possible for the producer-handler to use his surplus milk to displace the Class I sales of producers who are the regular source of supply for the market. At the same time, it would permit the handler to purchase Class I milk at whatever price the producer-handler was willing to accept. This could result in giving such handler a competitive advantage over other handlers.

Accordingly, the provision is deleted and the allocation provisions are revised to provide that milk acquired from a producer-handler for distribution shall be subtracted from Class III of the pool handler's utilization even if not received at the handler's plant.

Various business arrangements, involving superficial association with the milk production operation, may be used to acquire an appearance of true producer-handler operation. To preclude the use of such devices the order should provide that a producer-handler furnish proof satisfactory to the market administrator that (a) the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled is the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person. A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the status of such person's operation and to facilitate verification of transactions with other handlers.

Other source milk definition. A definition of "other source milk" is necessary to facilitate the application of the order to the various categories of receipts at a regulated plant.

Other source milk should include all skim milk and butterfat contained in or represented by (a) fluid milk products utilized by the handler in his operation (except producer milk, fluid milk products received from pool plants, and fluid milk products in inventory at the beginning of the month), (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of products other than fluid milk products which are not otherwise accounted for under the order.

In order to verify the actual utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the handler's disposition records. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between records of receipts and disposition. Otherwise, the handler with improper or incomplete records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products. Otherwise, a handler by failing to keep records of receipts of nonfat dry milk and similar products that can be reconstituted into skim milk or other fluid milk products could gain a competitive advantage over other handlers in the market.

b. *Classification and allocation of milk.* A classified use plan should be established to insure that all milk and milk products handled by handlers fully or partially regulated under the order are fully accounted for according to the various uses in such handlers' plants. Milk is disposed of in the market in a wide variety of forms, representing different proportions of butterfat and skim milk components of milk. These proportions may be greatly changed from the proportions of butterfat and skim milk in the milk as first received. Accounting for milk and milk products on a skim milk and butterfat basis is the most appropriate means of securing complete accounting on all milk and milk products involved in the market transactions.

This accounting system, common in Federal orders, will insure uniformity in application of the classification and pricing provisions of the order to handlers.

Fluid milk product. A definition of "fluid milk product" is provided in the order.

"Fluid milk product" means the skim milk and butterfat contained in milk, skim milk, buttermilk, flavored milk and milk drinks, mixtures of cream and milk such as "half and half," concentrated milk and filled milk. Except as specifically noted below, the term includes these products in either fluid or frozen form and regardless of whether additional nonfat milk solids have been added.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified on the basis of skim milk and butterfat according to the form in which, or the purpose for which, such skim milk and butterfat were used or disposed of, as Class I, Class II, or Class III milk.

Milk is received by handlers directly from dairy farmers, from other handlers, and from other sources. Milk from all these sources may be commingled in the handler's plant. It is also necessary, therefore, to have a plan for allocating the uses of milk to each source of supply in order to afford a means to establish the classification of producer milk and to apply class prices thereto.

The Class I classification adopted herein is similar to that contained in the present Oregon statute except that fluid cream is classified as Class II. Fluid cream products containing less than 18 percent butterfat, "half and half" for example, would continue to be classified as Class I. The recommended decision would have classified as Class I all fluid cream and cream products other than sterilized cream and cream products aseptically packaged and aerated cream. The sterilized aseptically packaged cream products were classified as Class II and aerated cream was classified as Class III.

Accordingly, Class I milk should include all skim milk and butterfat disposed of in the form of a fluid milk product as defined herein. Further, any product not specified in Class II or Class III milk and any milk that cannot be accounted for by the handler (other than shrinkage within the limits permitted in Class III) would be classified as Class I. Class I, however, should not include products which are sterilized and in hermetically sealed all-metal containers.

Proponent cooperatives urged the inclusion in Class I of yogurt and eggnog. Handlers opposed such classification. Under the present Oregon regulations, yogurt and eggnog are classified as Class II milk. Neither product is classified as Class I in the adjoining Federal order markets, being classified as Class II in the Puget Sound marketing area and as Class III in the Inland Empire marketing area. In the absence of any substantial evidence in the record to support a Class I classification, these items should not be classified as Class I under the order at this time.

Producers specifically proposed that filled milk be classified as a Class I item. At the present time, this product is classified and priced as Class I milk in the State of Oregon but may not be distributed in the Washington portion of the marketing area.

A hearing held at Memphis, Tenn., in February, April, and May 1968 (33 F.R. 2785) dealt with the appropriate classification treatment in all Federal order markets of filled milk and certain other products containing milk or milk derivatives which are disposed of in fluid form. Evidence was received as to the need for a coordinated program of classifying such proucts in all Federal order markets. A recommended decision based on the Memphis hearing was issued on June 17, 1969. The findings and conclusions adopted therein are similar to the findings and conclusions of this decision with respect to the classification of filled milk.

Skim milk disposed of for fluid consumption in "filled milk" should be classified as Class I milk.

The product marketed as "filled milk" is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and butterfat in whole milk. Hence, well over 90 percent of the product is skim milk. In filled milk the skim milk portion may be either fresh fluid skim milk as separated from whole milk or reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. Whether made from vegetable fat and fresh or reconstituted skim milk, or any combination thereof, the resulting product resembles whole milk in appearance.

Filled milk is distributed by milk handlers in the course of their regular business through the same outlets and in the same types of containers as whole milk.

As noted above, the skim milk in the product is now classified and priced as Class I milk under the Oregon regulations. Likewise it is classified and priced as Class I milk in most Federal order markets. Skim milk is the principal milk product involved in the classification since the residual butterfat in the skim milk would be minimal.

The evidence in the present hearing record supports the classification of skim milk and butterfat utilized in filled milk as Class I disposition.

The Act specifically provides that each order shall contain terms "* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *". In applying the language of the Act we must consider the form and the purpose of use of both the filled milk and its milk ingredient content.

The form of filled milk and the purpose for which it is used are the same in form and purpose of use as whole milk. Filled milk is disposed of in fluid form in semblance of whole milk. Handlers market it in the same types of packages and in the same trade channels as the whole milk they sell. It is primarily intended as a beverage substitute for whole milk.

Similarly, the fluid skim milk content of the filled milk is in the same form as the skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification.

This classification of the product recognizes further that the Class I price level serves to assure an adequate but not excessive milk supply. Hence, the skim milk (or butterfat) in both products, and in other fluid milk products, should make proportionate contributions to this objective and returns to dairy farmers for the corresponding milk components of the two products should be the same.

The product "filled milk" therefore should be classified, for the purpose of pricing under the order, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification should apply only to the milk ingredients in the product.

Some handlers opposed Class I classification on the ground that the product can be reconstituted from nonfluid ingredients and hence should be classified as other than Class I. In view of the preceding, the handlers' proposal is not adopted.

At the hearing, producers proposed to exclude from Class I only those sterilized fluid milk products that are packed in hermetically sealed metal containers. Producers contended that the product when sold in the foil-lined paper carton should be classified and priced as Class I the same as any other fluid cream in a paper carton. They claimed that its alleged asepsis and 6-week shelf life do not sufficiently distinguish it from ordinary pasteurized cream to warrant a different classification. They further stated that even should a distinction be made, the product should be classified and priced as Class I since its sales replace those of fluid cream which otherwise would accrue to the benefit of pool producers.

A witness appeared for the Avoset Co., a California concern which packages sterilized cream in glass and foil-lined paper cartons. It is the position of the Avoset Co. that its product should be classified as Class III. It is claimed that the foil-lined carton, though it permits the passage of air into and out of the container, does prevent rapid microbial spoilage. It is further claimed that the product is completely aseptic, has a long shelf life and therefore should be classified the same as sterilized products in all-metal containers.

At the present time, the product is classified and priced as Class I under many Federal orders which exclude from Class I only those sterilized products which are packaged in hermetically sealed metal or glass containers. In other orders, its classification depends on whether the foil-lined carton is considered to be hermetically sealed.

Under the present Oregon regulation the product is not classified as Class I.

On the present record the product should be classified as Class II. Its distribution in the market is very limited at the present time. It is not made in any plant which would be subject to regulation. Handlers merely act as jobbers for the product which is processed in California. Since it also provided that the product be deducted from Class II in the allocation procedure, handlers will not incur any obligation to the pool as a result of handling it.

Should the product be manufactured in a pool plant, the handler would desire a dependable supply of high quality milk as he does for cottage cheese, ice cream, and other products classified as Class II. It should be classified in the same class.

Proponent cooperative associations excepted to the recommended classification of cream and cream products. It was their position that all cream should be classified in the same class regardless of whether it is sterilized or eseptically packaged. They suggested that all cream might properly be classified as Class II rather than as Class I. This they felt would improve the competitive position of fresh cream in the market place.

In the Oregon-Washington market, as in all others, sales of cream have been declining steadily. This decline is attributable in part to changes in the dietary habits of the American people and in part to the competition of lower priced cream substitutes made from vegetable fat.

Classifying cream in the lower priced Class II category will make these items more competitive pricewise with nondairy substitutes and should result in increased use of butterfat in cream.

Mixtures of cream and milk or skim milk such as "half and half" should continue to be classified as Class I. These products, because of their lower butterfat content, have been in a much better competitive position with nondairy substitutes, than fluid cream has been. The Class I classification should include all such products regardless of whether sterilized and aseptically packaged. This will place all such products on an equal competitive basis. To insure uniformity of interpretation, the order should specify that all products containing less than 18 percent butterfat be Class I. Products with 18 percent or more butterfat would be Class II even though in the State of Washington a product to be designated as cream must contain at least 20 percent butterfat. Both Federal and Oregon standards fix 18 percent as the minimum butterfat content of cream. The standards are as reported in Agriculture Handbook No. 51, "Federal and State Standards for the Composition of Milk Products", dated January 1, 1965, issued by the U.S. Department of Agriculture, Consumer and Marketing Service.

The products classified in Class I are fluid milk products for which handlers require a regular and dependable supply of high quality milk. In general, they are bulky, highly perishable, and must be processed on a day to day basis.

Under some circumstances, nonfat milk solids may be used to increase the normal nonfat milk solids content in the preparation of fluid milk products distributed in the marketing area. For the purposes of accounting for the skim milk required to produce such products, the added nonfat milk solids should include the normal quantity of water originally associated therewith. The volume of the fluid milk product to which nonfat milk solids had been added, to be classified in Class I, would be the quantity equivalent to the volume of the same product made without the addition of nonfat milk solids. The remaining volume of the product, which represents the skim milk equivalent of added nonfat milk solids, should be classified as Class III.

In the case of products which are wholly or partially reconstituted from nonfat milk solids, such products would be accounted for by adding to the nonfat milk solids the normal quantity of water originally associated with the solids and the entire volume would be accounted for as Class I.

Inventories of fluid milk products at the end of each month enter into the accounting for a handler's receipts and utilization. To facilitate the accounting procedure, the month-end inventories of bulk fluid milk products should be classified in Class III. In the following month, they would be subtracted under the allocation procedure first from any available Class III milk and then, in sequence, from Class II and Class I. The higher use value of any such skim milk and butterfat allocated to Class I or Class II in the following month would be reflected in returns to producers.

Fluid milk products on hand in packaged form at the end of the month should be classified as Class I milk. This classification conforms with the ultimate utilization of most of the packaged fluid milk products in inventory. This results in fewer adjustments in classification and handlers' obligations than if classified in Class III as in the case of bulk milk.

To insure that all handlers pay the current month's Class I milk price for Class I dispositions during the month, it is provided that if the Class I milk price increases over the previous month, the handler will be charged the difference between the Class I milk price for the current month and the Class I milk price for the preceding month on the quantity of ending inventory assigned to Class I milk in the preceding month. Likewise, if the Class I milk price decreases, the handler will receive a corresponding credit.

Inventories would include only the skim milk and butterfat in bulk and packaged fluid milk products on hand at the end of the month. Since the disposition of skim milk and butterfat in nonfluid milk products has been accounted for when used to manufacture a milk product (and classified as Class II or Class III) such skim milk and butterfat would not be included in inventories.

Inventories of fluid milk products at the beginning of the first month in which this order becomes effective or during any month in which a plant becomes regulated for the first time should be allocated to any available Class III utilization of the plant during the month. This procedure will preserve the priority of assignment to current receipts of producer milk of the current Class I utilization of the plant.

Class II should include all skim milk and butterfat disposed of in the form of cream (including that in frozen cream, plastic cream and condensed milk and condensed skim milk, either plain or sweetened) which is used to produce ice cream, ice cream mix, frozen desserts and mixes therefor, eggnog, yogurt, cottage cheese, sour cream mixtures to which other ingredients have been added (commonly referred to as "dips") aerated cream products, and sterilized cream which is aseptically packaged.

Class II should also include fluid milk products and cream disposed of to bakeries, candy factories, soup companies and similar establishments where nondairy foods are processed commercially. In the recommended decision such disposition would have been classified as Class III. In the exceptions it is pointed out that such disposition is classified as Class II milk under both the present Oregon statute and under the adjoining Federal order regulating the Puget Sound marketing area, and that such manufacturers have shown a willingness to pay Class II prices for high quality Grade A milk of producers for use in such products. Accordingly, it is concluded that such usage should be classified as Class II.

The items specified in Class II constitute a substantial and continuing outlet for reserve supplies of producer milk. The ice cream and cottage cheese market is a year-round market requiring a regular supply of high quality milk. Although there is no general requirement throughout the area that Grade A milk must be used in the manufacture of ice cream, ice cream mix and cottage cheese, there is a demand by handlers for Grade A milk for these uses. This has been recognized by the State of Oregon which has established a separate classification for these items priced higher than the price of milk used in butter, hard cheese, nonfat dry milk, evaporated milk, etc. Condensed milk and frozen and plastic cream are used in the manufacture of ice cream and when so used should be classified in the same class as ice cream.

A Class III classification should be established for milk used in the manufacture of other dairy products such as butter, cheese (other than cottage cheese) nonfat dry milk, dry whole milk, sterilized products in hermetically sealed all-metal containers, bulk evaporated milk, and condensed milk or skim milk reused in the production of a Class III product in a pool plant or in a nonpool plant located in the marketing area. These items are generally in concentrated form, are storable and compete on the national market with like products produced anywhere in the United States.

For convenience and economy of administration, it is necessary to distinguish between the use of condensed milk and condensed skim milk in Class II and in Class III. These condensed products when used in the manufacture of any other product here defined as Class II should also be classified as Class II. The Class III classification of these condensed products should be confined to that which is reused in the manufacture of a product such as evaporated milk or nonfat dry milk solids and that used in the fortification of a Class I product. The Class III classification will apply only when such reuse occurs in a pool plant or in a nonpool plant located within the marketing area.

The principal use of condensed milk and condensed skim milk is in the manufacture of ice cream, a Class II utilization. It is seldom hauled long distances for further processing into Class III products.

Condensed milk and skim milk, however, are frequently shipped to distant points for use in ice cream. The cost to the market administrator of verifying the actual use of such condensed products would be prohibitive. Hence, any condensed milk or condensed skim milk which is disposed of outside the marketing area, other than to a pool plant should be classified as Class II milk. This will obviate the necessity of the market administrator's being required to travel long distances to determine by audit the ultimate use of such product.

Class III also would include inventories of fluid milk products not processed or packaged. It would include the skim milk equivalent of that portion of any nonfat milk solids which were added to a fluid milk product but were not classified as Class I.

Skim milk and butterfat in fluid milk products dumped or disposed of by a handler for livestock feed should be classified as Class III milk. Such outlets often represent the most efficient means of disposing of surplus skim milk. Transportation and handling costs are such that it is uneconomical to ship relatively small, sporadic quantities of unneeded skim milk to trade outlets for surplus disposal. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult or impracticable to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class III when dumped or disposed of for livestock feed.

It would not be practicable to permit the unlimited dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat (for which no better outlet is available) as other than Class III. Accordingly, a Class III classification is appropriate for the skim milk and butterfat in fluid milk products dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage." Since shrinkage represents disappearance of milk for which the handler must account, but for which no direct return is realized, it should be considered as Class III milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class III at each pool plant should be 2 percent of producer milk (except that diverted to a nonpool plant); plus 1.5 percent of producer milk from a cooperative as a handler and bulk fluid milk products from pool plants of other handlers; and less 1.5 percent of bulk fluid milk products transferred to other plants (except pool plants of the same handler). A 1.5 percent shrinkage allowance would be allowed on bulk fluid milk products received from other order plants and unregulated supply plants (exclusive of the quantity for which Class II or Class III utilization is requested by the handler).

As provided elsewhere in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is a handler under

such conditions, the operator of a pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full 2 percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum shrinkage in Class III allowed the handler on such milk would be 1.5 percent, and the cooperative would be responsible for any difference between the gross weight of producer milk received in the tank truck at the farms and that delivered to pool plants. This procedure is followed in a number of other Federal orders and provides a reasonable basis for the allocation of the shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

In those instances in which a pool plant operator is not purchasing farm tank milk (from a cooperative as a handler) on the basis of farm weights, any difference between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant should be considered a receipt of producer milk by the cooperative at the location of the pool plant. The cooperative would report such differences, which may reasonably be expected to be within 0.5 percent of the quantity of producer milk determined on the basis of farm weights during the month, to the market administrator for inclusion in the monthly pool computation. Up to 0.5 percent of the total producer farm tank milk involved would be reported and pooled as Class III, and any such difference in excess of the maximum allowable Class III shrinkage of 0.5 percent would be Class I.

The cooperative would be responsible for settling with the producer-settlement fund for the total quantity of shrinkage it reported. If the quantity of bulk tank milk physically received at a pool plant from a cooperative during the month is the same as or greater than the sum of the farm weights, the cooperative would have no settlement to make with the producer-settlement fund on such milk. However, in those instances wherein the quantities of milk physically received at pool plants are greater than the farm weights, the pool plant operator's obligation to the producer-settlement fund would be on the basis of the weights ascertained at his plant.

Plants which are operated in a reasonably efficient manner and for which accurate records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and to encourage maintenance of adequate records and efficient handling of milk.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class III as shrinkage since these types of receipts are allocated pro rata to class uses along with the quantities received from pool plants and producers. Under the allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class III shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class III uses, since the allocation procedure insures assignment of such milk to Class III in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class III shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Transfers. Fluid milk products may be disposed of to other plants for processing. It is necessary, therefore, to provide specific rules so that the classification of such transfers may be determined under this order.

Fluid milk products transferred from a pool plant to the pool plant of another handler should be Class I unless both plant operators claim a Class II or Class III classification on their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee plant after the allocation of its receipts of other source milk. If other source milk (e.g., nonfat dry milk) to which a surplus value applies is received at the shipping plant during the month, the skim milk or butterfat in fluid milk products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. If the shipping handler receives other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

The above provisions governing transfers between pool plants will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Fluid milk products transferred or diverted to a nonpool plant (other than transfers to the plant of a producer-handler, an exempt distributing plant, or an other order plant) should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk and milk products in the nonpool plant. Such transfers to the nonpool plant should be assigned first to its Class I disposition in regulated areas and thereafter to other Class I usage after receipts from dairy farmers who regularly supply the nonpool plant, and the remainder to the other uses of the plant. Provision should also be made for sharing the Class I utilization of the nonpool plant when transfers to the plant are made from other regulated plants.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Fluid milk products transferred to other order plants would be classified according to the utilization assigned them at such other order plants.

Allocation. Because the value of producer milk is based on its classification, the order must prescribe an assignment of receipts from all sources during the month to establish such classification.

The system of allocating handlers' receipts to the various classes should be basically the same as that adopted in the decision issued June 19, 1964, for 76 milk orders integrating into each order's regulatory plan, milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. Official notice was taken of that decision (29 F.R. 9110) at the hearing. Such decision provides a procedure for allocating over a handler's total utilization his receipts from all nonpool sources, and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Producers testified that the method adopted as a result of the June 19, 1964 decision, is appropriate in this area and is needed to coordinate this regulation in the treatment of unregulated milk and other order milk with other Federal orders.

The aforesaid decision sets forth also the standards for dealing with unregulated milk under Federal orders and the system of allocation included in all orders. It describes the appropriate treatment of other order milk received at pool plants so as to coordinate the applicable

regulations on all movements of milk between Federal order markets. No testimony was offered in opposition to the incorporation of the same provisions in this order.

The findings and conclusions of the aforesaid decision are equally applicable in the proposed marketing area under current conditions and, accordingly, are adopted in their entirety as if set forth in full herein, subject to the modifications set forth below.

The allocation provisions specifically provide for treating filled milk which has been reconstituted from nonfat dry milk in the same manner as any other fluid milk product which has been so reconstituted.

The problems of proper classification and charge for use of nonfat dry milk to produce products for Class I disposition was specifically dealt with in the decision of June 19, 1964, referred to above. The method of treating reconstituted products described in that decision is appropriately applicable to reconstituted skim milk used in filled milk.

Skim milk and butterfat received in the form of Class II products should be allocated directly to Class II products disposed of from the plant even though they may be reprocessed as in the case of creaming cottage cheese curd or freezing ice cream. Such products are already in processed form when received and are intended only for use in the same category of products.

The allocation provisions should specify that any receipts from a producer-handler be allocated to the Class III utilization of the purchasing handler. The reasons for this provision are discussed above in conjunction with the definition of producer-handler.

c. *Class prices.* In order to promote and maintain orderly marketing conditions, minimum class prices for producer milk must be established at levels that will reflect economic conditions affecting the market supply and demand for milk, and tend to maintain a supply of milk sufficient to meet the fluid needs of the market plus a reserve to care for daily fluctuations in demand.

It is estimated that slightly less than one billion pounds of Grade A milk will be received annually by handlers in the market who are expected to become fully regulated. Of this amount, approximately two-thirds is expected to be utilized in Class I products. Therefore, there is no indication that supplies are presently inadequate or in danger of becoming so.

The Class I price must not be so high as to attract unneeded supplies to the market. Such over attraction of milk would tend to result in uneconomic and unnecessary surpluses which would depress the uniform prices to producers. On the other hand, the price must be sufficiently high to encourage the production of the quantity of high quality milk required for the fluid needs of the market plus an adequate reserve.

The Class II price should be high enough above the manufacturing price to compensate producers for at least part of the cost of delivering sufficient Grade A milk to meet the needs of handlers for cottage cheese, ice cream, and related items for which handlers indicate a need to use Grade A milk. Conversely, the price cannot be so high that handlers will shift manufacturing grade milk or manufactured milk products for such uses.

The Class III price must be fixed at a level which will insure a market for milk produced in excess of the Class I and Class II requirements of the market, but high enough to discourage association with the pool of additional Grade A milk simply for use in manufactured dairy products.

Class prices, as well as uniform prices, to producers should be computed and announced on a 3.5 percent butterfat content basis. This will conform to prevailing practice in the market.

Class I price. For an 18-month period beginning with the effective date of the order, the Class I price for milk of 3.5 percent butterfat content should be established at an annual level of $1.95 ($1.75 plus 20 cents) per hundredweight above the basic formula price which would be the average price paid for manufacturing grade milk in Minnesota and Wisconsin during the preceding month. For the purpose of computing Class I prices, however, the basic formula price should not be less than $4.33. This will insure that the present basic formula price "floor" price in other Federal order markets will be the same in this market.

The method of adding a differential to such basic formula price in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. Prices for milk used for fluid purposes in the proposed marketing area have a direct relationship to the prices paid for milk used for manufacturing purposes.

A differential over manufacturing milk prices is necessary to cover the extra costs of meeting quality requirements in the production of milk for fluid uses and in transporting the milk to market. Moreover, it is a necessary incentive for dairy farmers to produce and deliver an adequate supply of quality milk to meet the demand for fluid milk.

Producers proposed that the Class I price be computed by adding a specified differential to a basic formula price. As the basic formula price, they proposed the Minnesota-Wisconsin manufacturing milk price series. This series is based on prices paid at a large number of manufacturing plants in each of the two States. Plant operators report the total pounds of manufacturing grade milk received from farmers, the total butterfat content and the total dollars paid to dairy farmers for such milk, f.o.b. plant. These prices are reported on a current month basis and the announced Minnesota-Wisconsin price is available on or before the 5th day of the following month. The Minnesota-Wisconsin price series is the basic formula price in most Federal order markets, including the Puget Sound and Inland Empire markets which abut the Oregon-Washington marketing area.

Use of this formula as a "ceiling" will insure that the Class III prices will continue to reflect the values of butter and nonfat dry milk in the event of a temporary divergence in the relationship between such values and the Minnesota-Wisconsin price which also reflects the values of other manufactured dairy products such as cheese and evaporated milk. It will prevent the Class III price from exceeding butter-nonfat dry milk values to the point that the cooperative association plants, which handle most of the reserve supplies of the market, will find it difficult to market the reserve supplies.

A similar alternate formula based on butter and nonfat dry milk values is used in a number of Federal order markets (including Puget Sound) in conjunction with the use of the Minnesota-Wisconsin price as a basis for pricing milk in manufacturing uses. The price is computed by using product yields and market prices for butter and nonfat dry milk and a "make allowance" (48 cents) in general acceptance. This formula will provide an upper limit on the minimum Class III price fixed by the order which is identical to that contained in the Puget Sound order and is appropriate to the similar conditions prevailing in this market.

Proponent cooperatives suggested a "make allowance" of 65 cents instead of the 48 cents adopted herein. It was their contention that conditions in the Oregon-Washington market were not as favorable as those in the Puget Sound market for the manufacture of dairy products. They pointed to the daily and seasonal fluctuations in the supplies of milk available to the manufacturing plants and the costs involved in assembling and transporting excess supplies to such plants. These conditions, however, are not significantly different from those encountered in handling the reserve supplies of any fluid milk market of this size with a significant manufacturing volume. Processors of manufactured products in this area have competed with processors in the Puget Sound market for many years and continue to do so. It would not be reasonable to provide the requested difference in prices under regulation in this market.

In their exceptions, proponent cooperatives reiterated their views that the "make allowance" should be 65 cents as originally proposed instead of the 48 cents adopted herein. For the reasons set forth herein, this exception is overruled.

Butterfat differentials. Because of variations in the butterfat content of milk delivered by individual producers and in milk and milk products sold by different handlers, it is necessary to provide "butterfat differentials" to insure equitable payments reflecting such variations in butterfat.

The Class I butterfat differential should be 0.12 times the Chicago butter price for the preceding month, and the Class II and Class III differentials should both be 0.115 times the Chicago butter price for the current month.

The Class I butterfat differential is less than that provided in either the Puget Sound order (0.125 times the Chicago butter price) or the Inland Empire order (0.123 times the Chicago butter price). It is also less than the Class I butterfat differential effective under the present Oregon regulation.

In recent years, there has been a constant decline in the percentage of butterfat disposed of in Class I products. Not only have sales of low fat milk replaced the sales of whole milk, but there has also been a trend toward lowering the average butterfat content of whole milk. Lowering the prevailing butterfat differential in the market should provide an incentive to handlers to maintain and, perhaps, even increase the butterfat content of their bottled milk and milk products. The Class I differential of 0.12 times the Chicago butter price will help to achieve that objective.

The Class II and Class III butterfat differentials at 0.115 times the Chicago butter price are at a level frequently used in milk orders, including Inland Empire, for pricing the butterfat in milk used in manufactured dairy products. It will price butterfat at approximately the same level as that now provided under the state regulation in Oregon which has a Class II and III butterfat differential of 0.114 times the butter price.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the average value of their butterfat in the use classes provided in this order. The producer butterfat differential does not affect a handler's obligation and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

Location differentials. Location differentials should be incorporated in the order to provide appropriate adjustment in the Class I price and uniform price based upon the location of the plant at which the milk is received.

Class I milk because of its bulky and perishable nature incurs relatively high transportation costs when moved. Milk delivered directly by farmers to handlers' plants located close to the area where such milk is distributed to consumers is therefore more valuable to the handler than milk obtained from a plant many miles from the market since the handler incurs the cost of moving the milk from the plant of receipt to the market.

No location differential should apply to milk received at plants located in the Oregon portion of the marketing area (except Umatilla County) or in California. In Lewis, Pacific, Benton, Franklin, Grant, Yakima, and Walla Walla Counties in Washington and in Umatilla County in Oregon, the location differential should be 20 cents per hundredweight. At any other location more than 100 miles from the Multnomah County Courthouse in Portland, Oreg., the Class I price should be reduced 15 cents per hundredweight plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

In Lewis and Pacific Counties the 20-cent location differential is necessary to maintain proper price relationship between the Puget Sound and Oregon-Washington orders. There are plants in Lewis and Pacific Counties which are regulated under the Puget Sound order. The Class I price applicable under the Puget Sound order at such plants is 10 cents less than the Class I price for such locations proposed herein for the Oregon-Washington order. To maintain proper price relationships and prevent a dislocation of supplies, the difference in Class I prices in these counties under the two orders should not exceed 10 cents per hundredweight.

In the recommended decision it was provided that the 20-cent location differential would apply only in Lewis and Pacific Counties. After review of the exceptions filed on this point it has been concluded that the 20-cent location differential should also apply at plants located in Benton, Franklin, Grant, Yakima, and Walla Walla Counties in Washington and in Umatilla County, Oreg.

The exceptions point out that the location differentials as originally proposed would result in widely varying prices at plants located in Benton, Franklin, Grant, Yakima, and Walla Walla Counties, Wash., and Umatilla County, Oreg. These would range from 27 cents at Yakima and Sunnyside, Wash., and Herminston, Oreg., to 42 cents at Moses Lake, Wash. The distributing plants located in this six-county area compete with each other throughout the entire six-county area as well as outside the defined marketing area. They also compete extensively in some localities with plants regulated under the Inland Empire order. Handlers located in these counties feel it is necessary that prices there be uniform. Otherwise some of them would be placed at a competitive disadvantage relative to the others.

Producers and cooperative associations supplying plants in the six-county area likewise objected to the level of the location differentials. They claimed that unless location differentials were lowered, the resulting prices to producers would be lower than they are receiving at the present time.

A producer cooperative association supplying the Inland Empire market also excepted to the location differentials in this six-county area. It pointed to the fact that the resulting prices in the eastern portion of the area would be substantially below the prices under the Inland Empire order at the same points. It fears this would result in a dislocation of supplies and the attraction of quantities of unneeded milk to the Inland Empire market.

There are no plants in the six-county area which function primarily as supply plants for the Portland-Vancouver metropolitan area, although regular movements of milk occur between plants located at Yakima, Wash., and Hermiston, Oreg., and plants located in Portland.

The reduction of 7 cents in the location differential at Yakima and Hermiston would not be great enough to adversely affect the supply of milk for the Portland market. At the same time the 20-cent location differential applicable throughout the whole six-county area will result in better intermarket alignment of prices and will provide uniform prices at all plants in the 6-county area.

Except for Umatilla County, the Oregon portion of the marketing area generally lies between the crest of the Cascades and the Pacific Ocean. Both the population and the milk production are concentrated between the Cascade and Coast Ranges along U.S. Interstate Highway 5. Population centers are spaced along this highway from Portland at the northern border of the State to Grant's Pass and Medford which are located close to the California border in the south. There are very few communities of any size in western Oregon which are not located close to Interstate 5.

The city of Portland and its environs constitute the major population center. Nevertheless, substantial quantities of milk are processed and distributed by plants located along Interstate 5 all the way to the California border. These plants located in the major communities to the south depend generally on milk supplies produced relatively nearby. While local plants compete with each other for these local supplies, the competition with Portland plants at the procurement level lessens in the direction of the California border. Production in southern Oregon is generally in balance with the bottling requirements of the plants located there. Thus, there is no need for location differentials in southern Oregon to cover the cost of moving milk to Portland. Historically, uniform prices have prevailed throughout this area. The absence of location differentials under the Oregon regulation has not resulted in any dislocation of supply.

It is possible that one California plant will become subject to regulation under the order. This plant, located at Weed, Calif., has some distribution in the marketing area around Klamath Falls, Oreg. Currently, the State of California establishes the prices paid by the plant at Weed. These prices are in close alignment to the prices established herein for the Oregon portion of the market. Weed is approximately 350 miles from Portland. The location differential adopted for plants outside Oregon and the specified counties where the 20-cent location differential is applicable would be approximately 51 cents if effective at Weed. Such a price would give the Weed plant a substantial competitive edge on the Oregon plants with which it competes should it be freed of California regulation. Eliminating any location differential in California will place the Weed plant on virtually the same basis as its Oregon competitors.

Except for the plants in Lewis and Pacific Counties there are no Puget Sound regulated plants which would compete to any degree with plants which would be regulated under the Oregon-Washington marketing area.

At a plant outside the specified counties where the 20-cent location differential is applicable and the territory where no location differentials are provided, a location differential should apply if the plant is located more than 100 miles from the Multnomah County Courthouse in Portland, Oreg. Within the 100-mile radius there is no need for a location differential either to cause milk to be moved to Portland or to prevent a dislocation of supply between the Oregon-Washington market and other nearby markets. Beyond the 100-mile radius the location differential should be 15 cents, plus an additional 1.5 cents for each additional 10 miles or fraction thereof in excess of 110 miles that the plant is distant from the Multnomah County Courthouse in Portland.

These rates are similar to the rates originally proposed by the proponents and included in the notice of hearing, but are somewhat less than those in the revised proposal of proponent cooperatives.

The rate of 1.5 cents per hundredweight for each 10 road miles reasonably reflects the approximate cost of moving milk to city markets. It is the rate generally used in Federal orders and is recognized as an appropriate and representative rate.

Uniform prices (except for excess milk) paid to producers supplying plants at which location differentials apply should be adjusted to reflect the value of milk f.o.b. the plant to which delivered. All producers who share in the Class I proceeds in the pool must be in position to move their milk to the market for Class I use. If a producer chooses to move his milk directly from the farm to a plant with no location differential, he pays the full transportation cost in delivering the milk. Thus, it is appropriate that differences in prices to producers delivering their milk to other plants where location differentials apply reflect a value for the milk at these locations adjusted for the cost of moving milk from these points to the market for Class I use.

No adjustment should be made in the Class III price or in the uniform price of excess milk because of the location of the plant to which the milk is delivered. (It may reasonably be expected that the uniform price for excess milk under this order will approximate the Class III price.) There is little difference in the value of milk for Class III uses associated with the location of the plant receiving the milk. This is because of the relatively low cost per hundredweight of milk involved in transporting manufactured or concentrated products which may be used for Class III purposes.

To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that, for the purpose of calculating such credit, fluid milk products received from pool plants of other handlers shall be assigned to any Class I milk at the plant(s) of the transferee handler that is in excess of the sum of producer milk receipts at plant(s) and receipts from other order plants and unregulated supply plants which are assigned to Class I. Such assignment would be made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment of milk will tend to discourage the unnecessary moving of milk between pool plants for other than Class I purposes at the expense of producers and will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent any unnecessary interruption in the operations of the order.

(d) *Distribution of the proceeds to producers.* A marketwide equalization pool should be included in the proposed order as a means of distributing to producers the proceeds from the sale of their milk. Such a pool will assure a producer supplying the order market a return based on his pro rata share of the total Class I sales of such market. The price that a producer receives for each month's deliveries will be one based on the overall utilization of all producer milk received at the pool plants of all regulated handlers during such month.

A marketwide pool permits a handler either to maintain some manufacturing operations in his plant to handle the seasonal and daily reserve supplies of milk or to limit the operation at his plant to the handling of milk for Class I purposes only, without affecting the prices payable to his producers as compared to other producers in the market.

The facilities in the various plants in the area for handling producer milk in excess of that needed for Class I purposes vary considerably. While a number of plants in the market are exclusively Class I operations and handle little or no surplus milk, others utilize varying proportions of their supplies for Class II items or manufacturing purposes. Under these conditions, a marketwide pool will facilitate the marketing of producer milk. A marketwide pool will make it possible for producer associations to assist in diverting seasonal reserve milk and thus keep producers on the market who are needed to fulfill the year-round requirements of the market. It will assist also in apportioning among all producers the lower returns from reserve milk when otherwise this burden would be placed on individual groups of producers. A marketwide pool will thereby contribute to market stability and the maintenance of an adequate and dependable supply of producer milk.

A witness appearing on behalf of the Oregon Golden Guernsey Association, the Oregon All-Jersey Association, and the Washington State Jersey Cattle Club proposed that the order provide individual-handler pools rather than a marketwide pool, or, in the alternative, a separate pool for "breed" milks sold under a breed label.

As pointed out above, the nature of the Oregon-Washington market and the concentration of the reserve supplies in the plants of a few handlers require the adoption of a marketwide pool. An individual-handler pool would not meet the needs of the market and would tend to further disrupt rather than restore orderly marketing conditions.

There is no basis for treating "breed" milks differently than other milk of producers. It was the contention of the witness that the production of Jersey or Guernsey milk is more costly than the production of other milks, that it has a higher consumer preference (because of its alleged greater solids content), and that it is produced more closely in line with the Class I demands of consumers than is market milk generally. Thus, he felt that a separate pool for breed milk would return to its producers a higher price than the market average.

None of the allegations as to quality and consumer preference are supported by the record. If, in fact, certain consumers prefer Golden Guernsey or All Jersey milk to the point where they are willing to pay a higher price than for other milk, there is nothing in the order which would prevent producers of such milk from receiving a premium over the order price for their milk. No premiums are paid in the market at this time for breed milk and the retail price of such milk to consumers is the same as the price for regular milk.

Moreover, the establishment of separate pools for breed milk would place the producers remaining in the marketwide pool at a disadvantage. A handler of special breed milk could shift the burden of his surplus to the marketwide pool by dropping individual producers when production exceeds sales of the special breed milk. These producers could enter a plant in the marketwide pool and share in its Class I sales. When milk was needed again at the plant handling special breed milk, the producers could return to the latter plant. Such practice would result in the marketwide pooling of the plant surplus without enabling other producers in the pool to share in any Class I returns from the sale of the special breed milk.

The proposals for individual-handler pools and separate pooling for "breed" milks are denied.

Base and excess plan. A "base and excess" plan of distributing producer returns should be incorporated in the order and producers paid uniform base and excess prices in each month. Base and excess plans have been widely used in the market for a number of years.

Most of the producers residing in the State of Oregon, and some producers residing outside the State of Oregon, have been paid for their milk in accordance with the Oregon base or "quota" plan operated by the State of Oregon Department of Agriculture. Some other producers have been paid in accordance with base and excess plans operated by the respective handlers to whom they deliver their milk.

The original proposal of the proponent cooperative associations did not provide for a base and excess plan of payment to producers who were not paid in accordance with the terms of the Oregon plan. It was their proposal that for producers residing in Oregon and delivering their milk to Oregon plants, the monies otherwise due them for their milk would be paid them in accordance with the terms of the Oregon plan unless they, or the cooperative association of which they are members, specifically requested otherwise.

With respect to producers residing outside Oregon whose milk is delivered to Oregon plants or is marketed through an Oregon licensed handler (proprietary or cooperative) participating in the Oregon plan, it was proposed they likewise be afforded the option of participating in the Oregon plan if they or the cooperative association of which they are members notify the market administrator of intention to participate. Producers not participating would be paid a straight blend price for all milk.

At the hearing, however, most of the proponent cooperatives proposed and supported a base and excess plan as a means of distributing returns to those producers not participating in the Oregon plan. They testified that, in view of the long history of bases in the market, producers already had adopted their individual production patterns to the needs of the market for Class I milk. Abandonment of the base and excess plan, they stated, might result in a deterioration of the overall seasonal production pattern for the market.

At the hearing, some of the proponents suggested further that participation in the Oregon plan be made mandatory for all producers residing in Oregon whose milk is received at Oregon plants. This position was supported by an official of the Milk Audit and Stabilization Division of the Oregon Department of Agriculture who appeared as a witness to explain the Oregon plan. It was his position that if participation in the plan were left optional, increasing numbers of producers would elect to be paid at the uniform price, or the base and excess prices otherwise payable, rather than to continue to participate in the Oregon plan.

Bases under the Oregon plan are directly related to Class I sales of handlers subject to the Oregon Milk Audit and Stabilization Law. Thus, a producer can not increase his base except as Class I sales of such handlers increase. However, his base could be reduced if Class I sales of such handlers decline.

Under a base-excess plan, bases are determined from deliveries during a representative period without adjustment to the Class I sales level. They are also subject to annual revision. Such plan, as adopted herein, is explained further below.

Except for the "Class I base plans" (not at issue here) expressly provided for by the amendments to the Agricultural Marketing Agreement Act by Public Law 89-321 (Food and Agriculture Act of 1965), the Agricultural Marketing Agreement Act expressly provides for uniform prices to all producers subject to certain adjustments including one "equitably, to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their marketings of milk during a representative period of time."

Thus, the Act precludes the Secretary from establishing different uniform prices to producers depending on whether they reside in or ship milk to plants in Oregon. Likewise, he is precluded from establishing a quota plan similar to the Oregon plan. This plan is similar in some respects to both a Class I base plan and a base and excess plan. Bases are related to both handlers' Class I sales and the producer's marketings as under a Class I base plan. Bases are subject to revision annually as under a base and excess plan and provision is made for the assignment of bases to new producers under certain conditions.

The Act, however, does not prohibit the Secretary from permitting producers, who desire to do so, to assign to the State of Oregon the returns otherwise due them for their milk in order that the State may redistribute such returns in accordance with the terms of the Oregon plan. Accordingly, it is concluded that those producers who desire to continue to have the returns for their milk distributed to them in accordance with the terms of the Oregon plan may continue to do so. For all other producers, returns would be distributed in accordance with the terms of the base and excess plan described below.

The primary purpose of the base-excess plan adopted is to encourage producers to maintain even production throughout the year. Without some such incentive to producers, production normally tends to fluctuate more during the year than handlers' Class I requirements. The various base plans which have been operated in the market have resulted in production being closely correlated with the fluid milk needs of the market. As under these plans, the base-excess plan proposed herein would tend to assure that excess production on the part of some producers would not affect adversely the returns to all other producers on the market.

The base and excess plan herein would establish a daily base for each producer by dividing his total deliveries to pool plants in the preceding August through December period by the number of days in the 5 months. The base would be computed in this manner only for those producers who delivered to pool plants on at least 120 days in the 5 months. For the purpose of computing the total effective base milk of a producer, the number of days of milk delivery would be the number of days of production represented by his deliveries. A single delivery by a producer on an every-other-day delivery basis, for example, would be considered as 2 days' production for the purpose of computing base milk.

Producers would establish new bases each year. They would be computed by the market administrator to be effective from February through January of the following year. Before February of each year, the market administrator would notify each producer, the handler receiving his milk, and the cooperative association of which he is a member, of the producer's base.

"Base milk" would mean producer milk received during the month which is not in excess of the producer's base milk multiplied by the number of days' production received at pool plants during the month. "Excess milk" would mean producer milk received during the month which is in excess of base milk for the same month.

Class I disposition in the market would be assigned to base milk first. If the aggregate Class I disposition were more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess milk price increased accordingly.

As provided in this decision, location adjustments would be applied to the price paid producers for base milk. Since excess milk will represent principally producer milk classified in Class III to which no location adjustment is applicable, the producer price for excess milk should not be subject to the location adjustment provisions of the order. The producer butterfat differential applicable to the uniform price should be used to adjust the uniform prices for base milk and excess milk.

A producer from whom no milk was received at pool plants in the August-December period, or who made such deliveries on less than 120 days during such months, would be assigned a base equal to a percentage of his daily average deliveries of producer milk for each month. In addition, a producer who had been assigned a base on deliveries to a pool plant for more than 120 days during the preceding August-December period should be permitted to relinquish his base and receive a new base in the same manner as a new producer, or a person who shipped to a pool plant on less than 120 days during the August-December period.

The base of a new producer would be computed by multiplying his deliveries

to a pool plant during the month by the following percentages:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

These percentages are identical to those contained in the base and excess plan for the Puget Sound market prior to the adoption of the Class I base plan for that market.

These percentages are adjusted seasonally to reflect the supply situation in the market. The lower rates in the flush production months should not encourage new producers to come on the market at a time when their production is not needed for Class I use. Neither are the stated percentages low enough to discourage entry into the market of a producer who intends to become permanently associated with the market.

It is likewise appropriate that a producer who has earned a base during the August–December period be permitted to relinquish that base and receive an assigned base in the same way as a new producer.

If a plant that was a nonpool plant in the preceding August–December period became a pool plant, the dairy farmers supplying that plant should be assigned bases in the same manner as if they had been producers during such period. Their bases would be calculated from their deliveries to that plant in the preceding August–December base-making period, such information on deliveries to be made available to the market administrator by the plant operator. Such a provision is commonly provided in Federal order base plans designed to achieve a more regular seasonal delivery of milk by each producer.

Likewise, a producer-handler who ceases to operate as a producer-handler and becomes a producer shipping milk to another handler should have a base computed on the basis of his operation during the preceding August–December period.

The order should provide appropriate rules for the handling of base transfers and for other conditions that arise in connection with the administration of the base and excess plan.

The base earned by a producer by delivering to pool plants on not less than 120 days in the preceding August–December period should be transferable under certain circumstances.

The base may be transferred to another producer only by a producer who earned the base on his deliveries during the August–December period. The transferring producer must sell, lease or otherwise convey his herd to the producer acquiring the base. Exceptions to the rule would apply only (1) with respect to a transfer to a member of the immediate family, in which case a base received by transfer could be transferred to a member of the immediate family, or (2) in the case of a baseholder's death when the base might be transferred to a person not a member of the immediate family.

The provisions of the recommended decision would have required that a producer to receive a base by transfer must not only acquire the herd with the base but also must continue to produce milk on the farm on which the base was earned. Exception to the latter requirement was taken by many persons who agreed that the base should be transferred only with the cows, but who insisted that the requirement that the transferee producer continue to produce milk on the same farm would work a severe hardship on many producers. It was argued further that it would conflict with the Oregon base plan which permits the transfer of base with the herd to another farm.

The State of Oregon, in its exceptions, expressed the fear that the requirement that the milk continue to be produced on the same farm could affect the operation of the Oregon base plan adversely, since it could result in the bases earned under the Federal order by Oregon producers falling substantially below the bases held by the same producers under the Oregon base plan. This would reduce the total amount of money available to be paid producers under the Oregon base plan and could result in lowering substantially the returns to producers participating in the plan while enhancing the amount of money available to nonparticipating producers.

After reviewing the exceptions, it has been concluded that a producr who acquires a base by transfer may move the herd with which the base was earned to another farm without forfeiting such transferred base.

The first base-making period under the order is expected to be August 1969 through December 1969. Complete data to compute bases will be available at the end of that period. It is appropriate, therefore, that the application of the base and excess pricing provisions of the order be delayed until February 1, 1970. For months prior to that date a market-wide uniform price for all milk should be computed.

Some proponents of the base plan urged that the base-making period be the 4 lowest months of production of the individual producer rather than the months of generally lowest production for the total market. They felt that this would tend to reduce the increase in bases from year to year which might occur when the producer is aware of the base-making period.

As stated previously, the purpose of the base plan is to adjust the production of all producers seasonally to best meet the requirements of the total market. To accomplish this most effectively, bases should be computed on the production during those months when total supplies of the market are least relative to sales, rather than on the performance of the individual producer throughout the year.

Payments for milk. All handlers should be required to make payments to the market administrator of the total value of their milk according to its classification. This should simplify payments by handlers by virtue of the participation of some of their producers in the Oregon base plan.

The market administrator then would pay producers who did not participate in the Oregon plan at the appropriate blend, or base and excess, prices. In the case of producers who were members of cooperative associations not participating in the Oregon plan but which had authority to collect payments from their members and requested to do so, the market administrator would pay the individual cooperative association an amount equal to the total payments otherwise due its member producers.

One handler excepted to the provision that the market administrator shall make payments to individual producers and cooperative associations. He argued that customary handler-producer relationships would be lessened thereby. No other party took exception to this provision. It is concluded that the saving effected thereby outweighs possible adverse affects on handler-producer relations. Accordingly, this exception is overruled.

With respect to producers participating in the Oregon plan, thus authorizing the State to collect for them, the market administrator would pay to the proper State official the total amount otherwise due to the participating producers. The State, in turn, would settle with participating producers and cooperative associations in accordance with the terms of the Oregon plan.

Such a method of payment will relieve handlers participating in the Oregon plan of the necessity of reconciling the required minimum payments to producers under the two payment plans. Thus, the entire producer payment procedure would be more complicated and burdensome than under the plan adopted.

Without such an arrangement, handlers would be required to make payments to the producer-settlement fund under the Federal order, if their utilization value exceeded the total money due producers as computed at the base and excess prices, or receive money from the producer-settlement fund if their utilization value was less than the value of their producer milk. They then would incur a further obligation to "equalize" further under the Oregon plan if the monies due producers under the Oregon plan varied from the amount that would be due such producers at the uniform prices computed under the order.

Provision should be made for a cooperative to receive payment for producers' milk which it causes to be delivered to a pool plant. Receiving payment for the milk of members and the blending of proceeds from the sale of such milk will tend to promote orderly marketing and will assist the several cooperatives in discharging their responsibilities to members and to the market.

The Act provides for the payment to cooperatives for milk delivered by them to handlers and permits the blending of all sales from members' milk. The contracts with their members authorize the principal cooperatives in the market to

collect for producer deliveries. Therefore, the market administrator, or the appropriate official of the State of Oregon in the case of producers participating in the Oregon plan, if requested by an authorized cooperative, would pay it an amount equal to the sum of the individual payments otherwise payable to the producers for whom it markets. Such payments should be made to cooperatives on or before the day prior to the date payments are due individual producers. This will enable the cooperatives to pay their members by the same time other producers receive their payments.

Producer-settlement fund. The market administrator should maintain a producer-settlement fund in which are deposited all funds paid by handlers and out of which are paid all monies due producers for their milk. Provision for the establishment and maintenance of a producer-settlement fund is common to Federal orders with marketwide pools.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside at the end of each month. This is necessary to provide for such contingencies as the failure of a handler to make payment of his monthly billing to the fund, or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than four nor more than five cents per hundredweight of producer milk in the pool for the month.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby be distributed to all producers on the market.

Interest payments on overdue accounts. Provision is made for the payment of interest at a monthly rate of one-half of 1 percent on amounts due the market administrator under each of the funds established by the order.

Prompt payment of amounts due the several funds is essential to the operation of the order provisions. Handlers who do not make prompt payment of their obligations, in effect, are borrowing for their own business purposes, money which is properly a part of the funds in the custody of the market administrator. Were the handlers to borrow money from the banks, they would be required to pay interest on such money. They, likewise, should be required to pay interest on money which, in effect, has been borrowed from the funds in the custody of the market administrator.

The rate prescribed herein, one-half of 1 percent per month (6 percent on an annual basis) compounded monthly, is reasonable.

Marketing services. Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. Any cooperative association, if approved for such activity by the Secretary, may perform such services for its member-producers and if it is doing so, the service will not be furnished to such producers by the market administrator.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to the other provisions of the order. There are no payments to other persons to verify on such milk and, therefore, no need to provide the same marketing services as are provided other producers.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers, on a uniform basis, that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producer deliveries reported by the handler are accurate.

An additional phase of the marketing service program is to furnish all producers with market information. Efficiency in the production, utilization, and marketing of milk will be promoted by providing for the dissemination of timely market information on a marketwide basis to producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders such marketing services. From comparison as to the number of producers involved and the expected volume of milk with other markets, a 6-cent rate is reasonable and should provide the funds necessary to conduct the program. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Expense of administration. Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers and on other source milk allocated to Class I milk.

The proposed order provides that a cooperative shall be the handler for its members' milk which it delivers in tank trucks from the farms to pool plants of other handlers. The cooperative is the handler for such milk basically for the purpose of making payments to its individual producers. The milk, however, would be considered as producer milk at the plant of the receiving handler for all accounting purposes, and consequently would be treated the same as any other direct receipts from producers. The market administrator must verify by audit the receipts and utilization at pool plants, whether the plant operator buys his milk directly from producers or through a cooperative as a bulk tank handler. No plant of the cooperative is involved in this particular circumstance. Such cooperative's function as a handler is primarily one of recordkeeping. It is appropriate, therefore, that the pool plant operator receiving such milk pay the administrative assessment on it on the same basis that he pays such assessment for all other producer milk received at his plant. The cooperative, however, would be liable for the administrative assessment on any amount by which the farm weights of the producer milk exceeded the aggregate weight on which the plant operator purchases the milk from the cooperative.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route disposition in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to such nonpool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales would reasonably constitute his pro rata share of the administrative expense.

In the case of unregulated milk which enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to prevent duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

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

GENERAL FINDINGS

(a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

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

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Oregon-Washington Marketing Area", and "Order Regulating the Handling of Milk in the Oregon-Washington Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

REFERENDUM ORDER; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

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

It is hereby further directed that a separate referendum, in which each individual producer has one vote, be conducted to determine whether the proposed base plan of payment to producers, as specified in the attached order, regulating the handling of milk in the Oregon-Washington marketing area is separately approved or favored by the producers, as defined under the terms of the order, and who during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of July 1969 is hereby determined to be the representative period for the conduct of such referendum.

Aaron L. Reeves is hereby designated agent of the Secretary to conduct such referenda in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (7 CFR 900.300 et seq.), such referenda to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on October 24, 1969.

RICHARD LYNG,
Assistant Secretary.

Order[1] Regulating the Handling of Milk in the Oregon-Washington Marketing Area

DEFINITIONS

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders have been met.

AUTHORITY: The provisions of this Part 1060 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1124.0 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 Oregon-Washington marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(4) All milk and milk products handled by handlers, as defined in 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 a handler's own production;

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a) (4) and (8) and the corresponding steps of § 1124.46(b); and

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Oregon-Washington marketing area shall be in conformity to, and in compliance with, the following terms and conditions.

The provisions of §§ 1124.1 to 1124.101, both inclusive, of the proposed order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 30, 1969 (34 F.R. 12744; F.R. Doc. 69–9092) shall be and are the terms and conditions of this order as if set forth in full herein subject to the following revisions:

Sections 1124.9(a)(1), 1124.11 (a) and (b), 1124.12 (a) and (b), 1124.15, 1124.31, 1124.40, 1124.41 (b) and (c), 1124.45, 1124.46(a)(5)(ii)(c), 1124.46(a)(12), 1124.52(a)(1), 1124.60 (a), (b), and (c), 1124.68 (b) and (c), 1124.70(d), 1124.65 (a), and 1124.66(a) (1) and (2) and (d) are changed. A new paragraph (b) is inserted in § 1124.44 and paragraphs (b) to (d) thereof are renumbered. Subparagraph (3) of § 1124.46(a)(3) is deleted and subparagraph (4) through (12) are renumbered. Section 1124.67 is deleted.

DEFINITIONS

§ 1124.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1124.2 Department.

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

§ 1124.3 Secretary.

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

§ 1124.4 Person.

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

§ 1124.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines;

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

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1124.6 Oregon-Washington marketing area.

"Oregon-Washington marketing area" hereinafter called the "marketing area", means all territories within the perimetric boundaries of the counties listed below, including all territory as is now occupied and as may be occupied in the future by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments. Where such an establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

OREGON COUNTIES

Benton.	Lane.
Clackamas.	Lincoln.
Clatsop.	Linn.
Columbia.	Marion.
Coos.	Morrow.
Deschutes.	Multnomah.
Douglas.	Polk.
Gilliam.	Sherman.
Hood River.	Tillamook.
Jackson.	Umatilla.
Jefferson.	Wasco.
Josephine.	Washington.
Klamath.	Yamhill.

WASHINGTON COUNTIES

Benton.	Pacific.[1]
Clark.	Skamania.
Cowlitz.	Wahkiakum.
Franklin.	Walla Walla.
Klickitat.	Yakima.
Lewis (the town of Vader only).	

§ 1124.7 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

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

(c) A cooperative association with respect to milk of its member producers which is diverted from a pool distributing plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member 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;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1124.61.

§ 1124.8 Plants.

(a) "Distributing plant" means a plant:

(1) That is approved by a duly constituted health authority for the processing or packaging of Grade A milk and which has route disposition in the marketing area during the month; or

(2) That processes or packages filled milk and has route disposition of filled milk in the marketing area during the month;

(b) "Supply plant" means a plant from which filled milk or a fluid milk product which has been approved by a duly constituted health authority for fluid consumption is shipped during the month to a distributing plant.

§ 1124.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b)

[1] All territory south of T. 11 N. and Long Island and the North Beach Peninsula only.

of this section except the plant of a handler exempt pursuant to § 1124.60 or § 1124.61: *Provided*, That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant which during the month:

(1) Has route disposition except filled milk in the marketing area of 15 percent or more of its total receipts of Grade A milk except packaged fluid milk products from other plants qualified under this paragraph, and from other order plants filled milk and receipts of diverted milk from other pool plants and from other order plants;

(2) Has total route disposition, except as filled milk, both inside and outside the marketing area, of 30 percent or more of such receipts: *Provided*, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested; and

(b) Any supply plant from which 30 percent of its dairy farm supply of Grade A milk is moved, except as filled milk, during the month to a plant(s) qualified under paragraph (a) of this section. Any plant which has qualified under this paragraph in each of the months of August through February (or would have so qualified had the order been in effect) shall qualify under this paragraph in each of the following months of March through July unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through July unless it fulfills the shipping requirements of this paragraph for such month.

§ 1124.10 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The term includes, but is not limited to the following categories of plants:

(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 order) issued pursuant to the Act.

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

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant and from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1124.9.

(e) "Exempt plant" means a plant described in § 1124.60.

§ 1124.11 Producer.

"Producer" means any person (other than a producer-handler as defined in any Federal order, including this order) who produces milk approved by a duly constituted health authority for fluid consumption which milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in paragraphs (a) and (b) of this section and subject to paragraphs (c), (d), (e), and (f). The term shall not include such person with respect to milk received at a pool plant from an other order plant by diversion if both buyer and seller have requested Class III milk classification in the reports of receipts and utilization filed with the respective market administrators:

(a) During March through July a cooperative association may divert for its account to a nonpool plant without limit the milk of any producer whose milk has been received previously at a pool plant. During the months of August through February such cooperative association may divert on others days the milk of any producer from whom at least three deliveries are received at a pool plant during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at pool distributing plants. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the 1st day of the month such agreement is effective. This request shall specify the basis for assigning any overdiverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool distributing plant may divert during any month of March through July for his account to a nonpool plant, without limit, the milk of any producer whose milk has been received previously at a pool plant. Other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section during the month. During the months of August through February such handler may divert on other days the milk of any producer from whom at least three deliveries are received during the month at his pool distributing plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at his pool distributing plant(s).

(c) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (a) and (b) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted and such overdiversions shall not be considered producer milk. If the handler fails to make such designation, only the milk of the dairy farmers which is physically received at a pool plant(s) by the diverting handler shall be producer milk for such month.

(d) For the purposes of the requirements of § 1124.9, milk diverted for the account of the operator of a pool distributing plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted.

(e) For the purposes of location adjustments pursuant to §§ 1124.52 and 1124.83, any milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(f) Milk moved from producers' farms to a nonpool plant may be diverted producer milk only if it is not fully subject to the pricing and pooling provisions of the other order and if both the diverting handler and the operator of the other order plant request Class III (or Class II) classification.

§ 1124.12 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area during the month, and who receives no skim milk (including nonfat dry milk or condensed skim milk or skim milk recombined from nonfat dry milk or condensed skim milk) or butterfat from any source, other than his own production, for use in fluid milk products during the month: *Except* that such person may purchase from other pool plants packaged fluid milk products, other than whole milk, in an amount not in excess of an average of 100 pounds per day during the month.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products (excluding receipts from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1124.13 Producer milk.

"Producer milk" means the skim milk and butterfat handled by a pool plant operator or a cooperative association handler pursuant to § 1124.7 (c) and (d) as follows:

(a) Producer milk of a handler operating a pool plant is skim milk and butterfat in milk:

(1) Received at such pool plant directly from producers and cooperative association handlers pursuant to § 1124.7 (d), except receipts of diverted producer

milk of another pool plant operator or diverted milk from an other order plant if diversion is claimed by the diverting handler and if both handlers have requested Class III classification of such diverted milk in their reports filed pursuant to § 1124.30;

(2) Diverted by the operator of such pool plant for his account to a nonpool plant subject to the limits prescribed in § 1124.11;

(3) Diverted by the operator of such pool plant to another pool plant if he claims such diversion and if operators of both plants have requested Class III classification of such diverted milk in their report filed pursuant to § 1124.30;

(b) Producer milk of a cooperative association pursuant to § 1124.7(c) is skim milk and butterfat in milk received by such cooperative association from producers' farms and diverted for its account to a nonpool plant, subject to the limits prescribed in § 1124.11.

(c) Producer milk of a cooperative association handler pursuant to § 1124.7(d) is skim milk and butterfat in milk received by such cooperative association from producers' farms in excess of the quantity delivered to pool plants. Such milk shall be priced at the location of the pool plant to which most of the milk in the tank truck was delivered during the month.

§ 1124.14 Other source milk.

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

(a) Receipts during the month in the form of fluid milk products from any source except producer milk and fluid milk products received from pool plants;

(b) Products (except Class II milk products received from pool plants) other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month; and

(c) Any disappearance of nonfluid milk products not otherwise accounted for pursuant to § 1124.33.

§ 1124.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or with added nonfat solids) including "dietary milk products" reconstituted milk or skim milk, filled milk, concentrated milk not in hermetically sealed all metal containers, and mixtures of cream and milk or skim milk containing less than 18 percent butterfat (such as "half and half") including those which are sterilized and aseptically packaged.

§ 1124.16 Route disposition.

"Route disposition" means delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery to a pool plant or a nonpool plant: *Provided*, That packaged fluid milk products that are transferred to a pool distributing plant from another distributing plant, and which are classified as Class I under § 1124.44(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under §1124.9(a) and the transferor plant shall be assigned in-area sales to the extent of such transfer but not in excess of the in-area sales of the transferee.

§ 1124.17 Oregon Base Plan.

"Oregon Base Plan" means the applicable provisions of Oregon Revised Statutes, Chapter 583.510 (1) and (2); 583.512; 583.515; 583.516; 583.525(2); 583.530(1)(c), and related provisions of Oregon Administrative Rules, Chapter 603-65-035; 65-040; 65-045; 65-050; 65-055; 65-060; 65-070; 65-075; 65-080; and 65-085.

§ 1124.18 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains not more than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1124.20 Designation.

The agency for the administration of this order 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.

§ 1124.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1124.22 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties; in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds received by § 1124.87, the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1124.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

(g) Verify all reports and payments of each handler, by audit of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office, and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1124.30 and 1124.31; or (2) payments pursuant to §§ 1124.80 through 1124.87;

(i) Publicly announce by posting in a conspicuous place in his office, and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the 5th day of each month, the Class I milk price and Class I butterfat differential for the month, computed pursuant to §§ 1124.51(a) and 1124.53(a), respectively;

(2) On or before the 5th day of each month, the Class II and Class III milk prices, and the Class II and Class III butterfat differentials, for the preceding month, computed pursuant to §§ 1124.51 (b) and (c), and 1124.53 (b) and (c), respectively; and

(3) On or before the 14th day of each month, the uniform prices for all producer milk computed pursuant to § 1124.71, and the butterfat differential computed pursuant to § 1124.84, for the preceding month;

(j) On or before the 14th day after the end of each month:

(1) Notify each handler of his net pool obligation computed pursuant to §§ 1124.62 and 1124.70 and of any adjustments pursuant to § 1124.85; and

(2) Report to each cooperative association which so requests the amount and class utilization of producer milk delivered from members of such association to each proprietary handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(k) Prepare and make available for the benefit of producers, consumers, and

handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this order, and which do not reveal confidential information;

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.46(a)(10), and the corresponding step of § 1124.46(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 estimates shall be based upon the most current available data and shall be final for such purposes;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1124.46, pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler 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

§ 1124.30 Reports of receipts and utilization.

On or before the ninth day after the end of each month, the following handlers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s) shall report for each such plant:

(1) The pounds of producer milk and the butterfat contained therein:

(i) Received directly from producers;

(ii) Received from a cooperative association handler pursuant to § 1124.7(d);

(iii) Diverted to a nonpool plant within the limits prescribed in § 1124.11; and

(iv) Diverted to a pool plant within the limits prescribed in § 1124.13(a)(3).

(2) The quantities of skim milk and butterfat contained in receipts from other pool plants;

(i) In the form of fluid milk products;

(ii) In the form of Class II milk products; and

(iii) As diverted from another pool plant.

(3) The quantities of skim milk and butterfat contained in receipts of other source milk;

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand, separately in bulk and in packages, at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement showing separately the in-area and outside area route disposition of filled milk and other Class I milk;

(6) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmer whose milk was so diverted;

(iii) The pounds of skim milk and butterfat contained in his milk so diverted;

(iv) The number of days his milk was received at a pool plant; and

(7) Such other information with respect to such receipts and utilization as the market administrator may prescribe; and

(b) Each cooperative association shall report separately with respect to milk for which it is a handler pursuant to § 1124.7 (c) and (d) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants;

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler; and

(4) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmer so diverted;

(iii) The pounds of skim milk and butterfat contained in his milk so diverted; and

(iv) The number of days his milk was received at a pool plant;

(c) Each handler operating a partially regulated distributing plant shall report the information required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat in Class I milk disposed of in the marketing area on routes and the quantity of reconstituted skim milk in such disposition.

§ 1124.31 Payroll reports.

On or before the 9th day of each month, the following handlers shall report to the market administrator, as follows:

(a) Each handler who operates a pool plant(s) shall submit to the market administrator his individual account for milk received from producers at each of his pool plants, including milk diverted as producer milk for his account from such plant during the preceding month which shall show:

(1) The name and the days of delivery of each producer from whom milk was received during the month with the address of any producer for whom such information was not furnished previously other than one who is a member of a cooperative association which is a handler pursuant to § 1124.7(d);

(2) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer reported in subparagraph (1) of this paragraph, identifying separately those producers for which a cooperative association is authorized to collect payments pursuant to § 1124.80(b); and

(3) The nature and amount of any deductions or charges involved in such payments.

(b) Each handler who operates a partially regulated distributing plant and elects to make payments pursuant to § 1124.62(a), shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; and

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1124.7 (c) and (d) the name and the number of days of delivery, with the address of any producers not previously reported, the total pounds of milk and the average butterfat content thereof which was received from each producer.

§ 1124.32 Other reports.

Each producer-handler, each handler operating an exempt plant pursuant to § 1124.60 (a) and (b) or an other order plant pursuant to § 1124.61, and each handler making payments pursuant to § 1124.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1124.33 Records and facilities.

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

(a) The receipts and utilization of all skim milk and butterfat handled in any form;

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

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

(d) Payments to producers, including any deductions, and the disbursement of money so deducted.

§ 1124.34 Retention of records.

All books and records required under this order 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 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 notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1124.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1124.30 shall be classified by the market administrator pursuant to the provisions of §§ 1124.41 through 1124.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids.

§ 1124.41 Classes of utilization.

Subject to the conditions set forth in §§ 1124.42 through 1124.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraphs (c) (2) and (3) of this section;

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

(3) Not accounted for as Class II milk or Class III milk.

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

(1) Disposed of in the form of cream (sweet or sour) sterilized cream, aerated cream, and mixtures of cream and milk or skim milk containing at least 18 percent butterfat.

(2) Used to produce cottage cheese, frozen cream, plastic cream, ice cream, ice cream mix, frozen desserts, frozen dessert mixes, sour cream mixtures to which other ingredients have been added (commonly referred to as "dips"), eggnog, yogurt, aerated cream products and condensed milk or skim milk (either plain or sweetened) utilized for any purpose other than those specified in paragraphs (c) (1) and (4) of this section; and

(3) Disposed of in bulk in the form of fluid milk products or in the form of cream or mixtures of cream and milk or skim milk to a commercial food processing establishment for use in the manufacture of bakery products, candy, meat products, prepared foods in hermetically sealed metal containers, and prepared foods in dried or nonfluid form, all of which products are processed for general distribution to the public for consumption off the premises.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter, butteroil, anhydrous butterfat, condensed milk or condensed skim milk (either plain or flavored) used to produce another Class III product in a pool plant or in a nonpool plant located within the marketing area, condensed buttermilk, cheese, except cottage cheese, sterilized products in hermetically sealed all-metal containers, nonfat dry milk, dried whole milk and blends of dried milk products;

(2) Contained in products which contain 6 percent or more of nonmilk fat or oil;

(3) In fluid milk products dumped after prior notification to and opportunity for verification by the market administrator;

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

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

(6) In shrinkage at each pool plant allocated pursuant to § 1124.42(b)(1) not to exceed the following:

(i) Two percent of receipts directly from producers and receipts of diverted producer milk from another pool plant if the diversion is accounted for on the basis of farm weights; plus

(ii) One and one-half percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1124.7(d), except that if the handler operating the pool plant files with the market administrator notice that he is receiving such milk on the basis of farm weights (determined from farm bulk tank calibrations and samples), the applicable percentage shall be two percent; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from other pool plants including diverted milk unless the rate of 2 percent is applicable under subdivision (i) of this subparagraph; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) One and one-half percent of disposition in bulk to other milk plants either by transfers or diversions; and

(7) In shrinkage allocated pursuant to § 1124.42(b)(2); and

(8) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1124.7 (c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts exclusive of those for which farm weights and tests are used as the basis of receipt at the plant to which delivered.

§ 1124.42 Shrinkage.

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

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

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between;

(1) A quantity equal to 50 times the maximum that may be computed pursuant to § 1124.41(c)(6); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of those specified in § 1124.41(c)(6).

§ 1124.43 Responsibility of handlers and reclassification of milk.

(a) Except as provided in paragraphs (b) and (c) of this section, all skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1124.41 through 1124.46, §§ 1124.50 through 1124.54, and §§ 1124.70 through 1124.71, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1124.7(d), shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1124.70;

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1124.7(d), the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I milk and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler pursuant to § 1124.7 (d) shall be responsible for proving that such skim milk and butterfat shall be classified other than as Class I milk; and

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

§ 1124.44 Transfers.

Skim milk and butterfat disposed of in the form of a fluid milk product (or a Class II milk product moved between pool plants) by a handler, including a handler pursuant to § 1124.7(c), shall be classified as follows:

(a) At the utilization indicated by the operator of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1124.46(a)(5), and the corresponding step of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I milk utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1124.46(a) (9) or (10) and the corresponding steps of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants.

(b) As Class I milk if transferred as a fluid product in packaged form to a nonpool plant which is not an other order plant;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant which is not an other order plant, a producer-handler plant or an exempt 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, except that cream so transferred may be classified as Class III if the handler claims classification of such cream in Class III in his report pursuant to § 1124.30, the handler tags the container of such cream as for manufacturing purposes, and the handler gives the market administrator sufficient notice to allow him to verify the shipment:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1124.30 for the month within which such transaction occurred;

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

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

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

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

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

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

(v) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification, and allocation shall apply;

(d) If transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

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

(2) If transferred or diverted in bulk form, classification shall be in Class I milk, if allocated as a fluid milk product under the other order to Class I milk; in Class II milk, if allocated to Class II milk under an order which provides three classes; or in Class III milk, if allocated to Class III milk under the other order or if allocated to Class II milk under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

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

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

(5) 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 § 1124.41.

(e) As Class I, if transferred as a fluid milk product to a producer-handler or to an exempt plant under § 1124.60 (a) or (b).

§ 1124.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1124.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1124.7(d) and was not received at a pool plant. Producer milk for which a cooperative association is the responsible handler pursuant to § 1124.7(d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1124.46, and computation of obligation pursuant to § 1124.70.

§ 1124.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1124.45, the market administrator shall determine each month 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 III milk the pounds of skim milk classified as Class III milk pursuant to § 1124.41(c)(5);

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

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

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

(3) Except for the first month this order is effective, or the first month in which a plant becomes a pool plant, subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below the pounds of skim milk in each of the following:

(i) From Class II, other source milk received in the form of a Class II product;

(ii) From the remaining pounds of skim milk in each class in series beginning with Class III:

(*a*) Other source milk in a form other than that of a fluid milk product or a Class II product;

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

(*c*) Fluid milk products received or acquired for distribution from a producer-handler as defined under this or any other Federal order;

(*d*) Receipts of fluid milk products from an exempt plant; and

(e) Receipts of reconstituted skim milk in filled milk from unregulated supply plants.

(5) Subtract, in sequence beginning with Class III milk in the order specified below, from the pounds of skim milk remaining in Class III milk and Class II milk;

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

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subdivision (4)(ii)(e) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk by 1.25; and

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

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III milk (and Class II milk), if Class III milk utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the other order;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III milk, the pounds of skim milk in inventory of bulk fluid milk products (and, for the first month the order is effective or the first month in which a plant becomes a pool plant, the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subdivision (4)(ii)(e) or subparagraph (5)(i) or (ii) of this paragraph.

(9) Subtract, beginning with Class III milk, from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case, of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5)(ii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk and Class II milk combined;

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1124.22(1); or

(b) The pounds of skim milk remaining in each class at a pool plant(s) of the handler;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers by transfer or diversion according to the classification assigned pursuant to § 1124.44(a); and

(11) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, and from cooperative associations pursuant to § 1124.7(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III milk. Any amount so subtracted shall be known as overage.

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to 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

§ 1124.50 Basic Formula price.

The basic formula price shall be the average price per huundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the butter price. 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.

§ 1124.51 Class prices.

Subject to the provisions of §§ 1124.52 and 1124.53, the class prices per hundredweight for the month shall be computed as follows:

(a) *Class I milk.* For the first 18 months from the effective date of this section, the Class I price shall be the basic formula price for the preceding month plus $1.75, plus an additional 20 cents;

(b) *Class II milk.* The Class II price shall be the Class III price for the month plus 25 cents; and

(c) *Class III milk.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 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 at Chicago as reported by the Department for the month;

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

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

§ 1124.52 Location adjustment to handlers.

(a) For producer milk and other source milk (for which a location adjustment is applicable) at a plant not located in the Oregon portion of the marketing area (except Umatilla County), or in the State of California which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the Class I price computed pursuant to § 1124.51 (a) shall be reduced by the following amounts:

(1) For any plant located in Lewis, Pacific, Benton, Franklin, Grant, Yakima, and Walla Walla Counties, Wash., and Umatilla County, Oreg., 20 cents;

(2) For any plant (other than as specified in subparagraph (1) of this paragraph) which is more than 100 miles from the Multnomah County Courthouse in Portland, Oreg., by shortest hard-surfaced highway distance as determined by the market administrator, such price shall be reduced by 15 cents, plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles; and

(b) For purposes of calculating such adjustment, fluid milk products received at a pool distributing plant from another pool plant shall be assigned to Class I milk at the transferee plant in that amount which is in excess of the sum of receipts from producers and cooperative associations pursuant to § 1124.7(d) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1124.53 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1124.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply by 0.12 the butter price described in subparagraph (c)(1) of § 1124.51 for the preceding month;

(b) *Class II milk.* Multiply by 0.115 the butter price described in subparagraph (c)(1) of § 1124.51; and

(c) *Class III milk.* Multiply by 0.115 the butter price described in subparagraph (c)(1) of § 1124.51.

§ 1124.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1124.60 Exemptions.

Sections 1124.40 through 1124.46, 1124.50 through 1124.54, 1124.70 through 1124.72, and 1124.80 through 1124.87 shall not apply to a producer-handler or an exempt plant described in paragraph (a) or (b) of this section:

(a) A distributing plant operated by a Government agency; and

(b) Any distributing plant from which less than an average of 300 pounds of Class I milk per day is disposed of in the marketing area on routes during the month.

§ 1124.61 Other order plants.

The provisions of this order shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may request and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1124.9(a) which also meets the pool plant requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, was disposed of during the month in such other Federal order marketing area on routes than was disposed of in this marketing area on routes, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I milk disposition on routes is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1124.9(a) which also meets the pool plant requirements of another Federal order on the basis of route distribution in such other marketing area, and from which the Secretary determines a greater quantity of Class I milk, except filled milk, is disposed of during the month in this marketing area on routes than is so disposed of in such other marketing area, but which plant maintains pooling status for the month under such other Federal order;

(c) A plant meeting the requirements of § 1124.9(b) which also meets the pool plant requirements of another Federal order and from which greater shipments, except filled milk, are made during the month to plants regulated under such other order than are made to plants regulated under this order.

§ 1124.62 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 §§ 1124.30 and 1124.31(b) 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 § 1124.70 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 III (or 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, except that reconstituted skim milk in filled milk should be valued at the Class III price. There shall be included in the obligation so computed a charge in the amount specified in § 1124.70(e) and a credit in the amount specified in § 1124.81(b) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph;

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1124.30 and 1124.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1124.8(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 in the marketing areas;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), subtract its value at the uniform price applicable at such location (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1124.68 Payments to producers under the Oregon base plan.

Notification shall be given by the market administrator to producers and cooperative associations of intent to make payment of producer returns attributable to producers who participate in the Oregon Base Plan in accordance with § 1124.82(c)(2). Producers who participate in the Oregon Base Plan shall be identified as follows:

(a) Any producer whose farm is located in Oregon and whose milk is received at a plant located in Oregon unless such producer notifies the market administrator in writing before the first day of any month for which he first elects to receive payment at the applicable uniform price(s);

(b) Any producer member of any cooperative association licensed or operating in Oregon unless such cooperative association notifies the market administrator in writing before the first day of any month for which it first elects to receive payment for its members' milk at the applicable uniform price(s); and

(c) Any producer whose farm is located outside Oregon but whose milk is received at a plant located in Oregon, or whose milk is sold through an Oregon licensed handler, and whose voluntary participation in the Oregon base plan is evidenced by a written agreement between such producer and such handler, unless such producer notifies the Market Administrator before the first day of any month for which he first elects to receive payment at the applicable uniform price(s).

DETERMINATION OF UNIFORM PRICES

§ 1124.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler pursuant to § 1124.7 (a), (c), and (d) during each month shall be a sum

of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1124.46(c), by the applicable class prices (adjusted pursuant to §§ 1124.52 and 1124.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1124.46(a)(11) and the corresponding step of § 1124.46(b), by the applicable class prices;

(c) Add the amounts computed under subparagraphs (1), (2), and (3) of this paragraph;

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(6) and the corresponding step of § 1124.46(b), for the current month;

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1124.46(a)(6) and the corresponding step of § 1124.46(b), for the current month, or the hundredweight of skim milk and butterfat remaining in Class III milk after the calculation pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b), for the preceding month, less the hundredweight used in the computation pursuant to subparagraph (1) of this paragraph, whichever is less; and

(3) Multiply the difference between the appropriate Class I price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(3) and the corresponding step of § 1124.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount.

(d) Add an amount equal to the difference between the value at the Class I price applicable to the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I milk pursuant to § 1124.46(a)(4) and the corresponding step of § 1124.46(b) except that for receipts of fluid milk products assigned to Class I pursuant to § 1124.46(a)(4)(ii)(b) the Class I price should be adjusted to the location of the transferor plant; and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received (but the adjusted price not to be less than the Class III price), with respect to skim milk and butterfat subtracted from Class I milk pursuant to § 1124.46(a)(8) and the corresponding step of § 1124.46(b).

§ 1124.71 Computation of uniform and weighted average prices.

For each month the market administrator shall compute the uniform and weighted average prices per hundredweight of milk as follows:

(a) (1) Combine into one total the values computed pursuant to § 1124.70 for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.81 for the preceding month;

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1124.83;

(3) Subtract, if the average butterfat content of the milk specified in paragraph (1) 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 § 1124.84 and multiplying the result by the total hundredweight of such milk;

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

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

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1124.70(e); and

(6) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price." The result shall also be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location differential is applicable.

PAYMENTS FOR MILK

§ 1124.80 Producer-settlement fund.

(a) The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund."

(b) All payments made by handlers pursuant to § 1124.62 (a) and (b) and § 1124.81 sthall be deposited in the fund and all payments made pursuant to § 1124.82 shall be made out of such fund.

§ 1124.81 Payments to the producer-settlement fund.

On or before the 16th day after the end of each month, each handler shall pay to the market administrator his net pool obligation computed pursuant to § 1124.70, less:

(a) The amount of the deductions and payments authorized by individual producers or cooperative association which are itemized on the handler's producer payroll; and

(b) (1) The value at the weighted average price computed pursuant to § 1124.71(a) applicable at the location of the plant(s) from which received (not to be less than the Class III price) with respect to other source milk for which values are computed pursuant to § 1124.70(e).

(2) In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than the total value of the milk received from such producer.

§ 1124.82 Payments from the producer-settlement fund.

(a) The market administrator shall compute the payment due each producer for milk received during the month from such producer by a handler(s) who made the payments for such month pursuant to § 1124.81 by multiplying the hundredweight of such milk by the appropriate uniform price(s) computed pursuant to § 1124.71 (a) or (b), whichever is applicable, adjusted by the location differential pursuant to § 1124.83 and the butterfat differential pursuant to § 1124.84, and less any charges or deductions made pursuant to § 1124.81(a).

(b) On or before the 20th day after the end of each month the market administrator shall pay direct to each producer who has not authorized a cooperative association to receive payment for such producer or for milk not subject to the Oregon Base Plan pursuant to § 1124.68, the amount of the payment calculated for such producer pursuant to paragraph (a) of this section subject to the provisions of § 1124.86.

(c) On or before the 18th day after the end of each month, the market administrator, subject to the provisions of § 1124.86, shall pay:

(1) To each cooperative association authorized to receive payments due producers who market their milk through such cooperative association, and which is not subject to the Oregon Base Plan pursuant to § 1124.68, an amount equal to the aggregate of the payments calculated pursuant to paragraph (a) of this section for all producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payments; and

(2) To the Director, Milk Audit and Stabilization Division, Oregon State Department of Agriculture, for each producer and cooperative association for milk subject to the Oregon Base Plan pursuant to § 1124.68, the aggregate of the payments otherwise due such individual producers and cooperative associations pursuant to paragraph (b) and subparagraph (c)(1) of this section.

§ 1124.83 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to § 1124.82, the market administrator shall reduce the uniform price computed pursuant to § 1124.71(a) by the location differential applicable at the location of the plant at which such milk was first physically received from producers and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1124.52; and

(b) For the purpose of computation pursuant to § 1124.81(b) the prices shall be adjusted at the rates set forth in

§ 1124.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1124.84 Butterfat differential to producers.

In making payments pursuant to § 1124.82 the applicable prices shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of the producer's milk is above or below 3.5 percent, respectively at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1124.46 by the butterfat differential for such class, dividing the sum of such values by the pounds of such butterfat and rounding the resultant figure to the nearest one-tenth cent.

§ 1124.85 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer, a cooperative association or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

(b) Any unpaid obligation of a handler pursuant to §§ 1124.81, 1124.86, and 1124.87 or paragraph (a) of this section including obligation incurred under this paragraph, shall be increased one-half of 1 percent on the 1st day of the month next following the due date of such obligation and at a similar rate on the 1st day of each month thereafter until such obligation is paid.

§ 1124.86 Marketing services.

(a) In making payments to producers pursuant to § 1124.82, the market administrator shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, with respect to the milk of producers (except the own production of a handler) for whom the marketing services set forth in paragraph (b) are not being performed by a cooperative association.

(b) The monies retained by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information and for the verification of weights, samples and tests of milk of producers for whom a cooperative association is not performing the same services on a comparable basis as determined by the Secretary.

§ 1124.87 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 16th 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 a handler's own production;

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a) (4) and (8) and the corresponding steps of § 1124.46(b); and

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

§ 1124.88 Termination of obligation.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this order 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 received the handler's utilization report on the skim milk and butterfat 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 skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the names of such producer or cooperative association, 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 order, to make available to the market administrator or his representatives all books and records required by this order 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 1st day of the 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 order to pay money shall not be terminated with respect to any transaction involving fraud, or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received if an underpayment is claimed or 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1124.90 Effective time.

The provisions of this order or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1124.91 Suspension or termination.

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

§ 1124.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this order, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1124.93 Liquidation.

(a) Upon the suspension or termination of any or all provisions of this order, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(b) If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1124.100 Agents.

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

§ 1124.101 Separability of provisions.

If any provision of this order or its application to any person or circumstances, is held invalid, the application of such provisions, and of the remaining provisions of this order, to other persons

or circumstances shall not be affected thereby.

Base and excess plan. The following provisions are necessary to effectuate a base and excess plan in the order. If approved by producers voting individually in a separate referendum, they will be added to the preceding order provisions, or substituted for such order provisions, as specified below:

1. Section 1124.19 is added and reads as follows:

§ 1124.19 Base, base milk, and excess milk.

(a) "Base" means a quantity of milk expressed in pounds per day or per month, computed pursuant to § 1124.65 (a) and (b), respectively.

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days of delivery in such month; or

(2) His monthly base computed pursuant to § 1124.65(b): *Provided*, That with respect to any producer with "every-other-day" delivery the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 1124.65(a).

(c) "Excess milk" means any delivery by a producer in excess of base milk.

2. In § 1124.30(a), the text of subparagraph (1) which precedes subdivision (i) is revised to read as follows:

§ 1124.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(1) The receipts of milk and the pounds of butterfat contained therein including the total quantities of base milk and excess milk.

* * * * *

3. In § 1124.31(a), subparagraph (4) is added to read as follows:

§ 1124.31 Payroll reports.

* * * * *

(a) * * *

(4) The pounds of base milk and the pounds of excess milk for each producer.

4. The following centerhead is added after § 1124.62 and §§ 1124.65, 1124.66, and 1124.67 are added and read as follows:

DETERMINATION OF BASE

§ 1124.65 Computation of producer bases.

Subject to the rules set forth in § 1124.66, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant on not less than one hundred twenty (120) days during the months of August through December, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered in such 5-month period by the number of days from the date of his first delivery to the end of such 5-month period. The base so computed, which shall be recomputed each year, shall become effective on the first day of February next following and shall remain in effect through the month of January of the next succeeding year: *Provided*, That for any dairy farmer:

(1) For whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant a daily base shall be computed pursuant to this paragraph; and

(2) Who has a producer-handler during the base-earning period his base shall be the daily average of his own production of milk for 120 days or more during the base-earning period.

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

§ 1124.66 Base rules.

The following rules shall be observed in the determination of bases:

(a) A base may be transferred upon written notice to the market administrator on or before the last day of the month of transfer, but under the following circumstances only: If a producer who earned a base pursuant to § 1124.65(a) sells, leases, or otherwise conveys his herd to another producer, the latter may receive the transferor's base, pursuant to the conveyance, and utilize such base for the remainder of the period for which such base is effective pursuant to § 1124.65(a), subject to the following conditions:

(1) Such base shall apply to deliveries of milk by the transferee producer from the same herd only;

(2) If such conveyance takes place subsequent to August 1 of any year, all milk delivered to a pool plant(s) between August 1 and the last day of the base-earning period as specified in § 1124.65 (a), inclusive, from the same herd (whether by the transferor or transferee producer) shall be utilized in computing the base of the transferee producer pursuant to § 1124.65(a);

(3) It is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this order; and

(4) Notwithstanding subparagraphs (1) and (2) of this paragraph, but in compliance with subparagraph (3) of this paragraph:

(i) A base, whether earned pursuant to § 1124.65(a) or received by transfer, may be transferred to a member of a baseholder's immediate family; and

(ii) In the case of a baseholder's death, a base earned pursuant to § 1124.65(a) by the baseholder or by a member of his immediate family may be further transferred to an outside party: *Provided*, That for purposes of this subparagraph a transfer to an estate shall not be considered as a transfer to an outside party.

(b) A producer who ceases deliveries to a pool plant for more than 45 days shall lose his base if computed pursuant to § 1124.65(a) and if he resumes deliveries to such a plant he shall be paid on a base determined pursuant to § 1124.65 (b) until he can establish a new base in the manner provided in § 1124.65(a).

(c) By notifying the market administrator in writing on or before the 15th day of any month, a producer holding a base established pursuant to § 1124.65 (a) may relinquish such base by cancellation. Such producer's base shall be computed in the manner provided by § 1124.65(b) and shall be effective from the first day of the month in which notice is received by the market administrator until the close of the period, pursuant to § 1124.65(a), for which such base was computed.

(d) On or before February 15 of each year notice of the amount of each producer's base shall be given by the market administrator to the producer, to the handler receiving such producer's milk and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place at each of his plants a list or lists showing the base of each producer whose milk is received at such plant.

(e) If a producer operates more than one farm he shall establish a separate base with respect to producer milk delivered from each such farm.

(f) Only producers as defined in § 1124.11 may establish or earn a base pursuant to the provisions of § 1124.65, and only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings, and equipment used are jointly owned or operated.

5. In § 1124.71, paragraph (a)(6) is revised and a new paragraph (b) is added to read as follows:

§ 1124.71 Computation of uniform and weighted average prices.

* * * * *

(a) * * *

(6) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price." For all months prior to February 1970, the result shall also be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location differential is applicable.

(b) For February 1970 and all subsequent months the market administrator shall compute "uniform prices" for base and excess milk as follows:

(1) From the net amount computed pursuant to paragraph (a) (1) through (4) of this section, subtract the following:

(i) The amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price; and

(ii) The total value of the excess milk computed by assigning such milk in series beginning with Class III to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices for milk containing 3.5 percent butterfat content and adding together the resulting amounts;

(2) Divide the net amount obtained in subparagraph (1) of this paragraph by the total hundredweight of base milk and subtract not less than 4 cents nor more than 5 cents. This result shall be known as the uniform price per hundredweight of base milk of 3.5 percent butterfat content; and

(3) Divide the amount obtained in subparagraph (1)(ii) of this paragraph by the total hundredweight of excess milk and subtract any fractional part of 1 cent. This result shall be known as the uniform price per hundredweight of excess milk of 3.5 percent butterfat content.

6. In § 1124.83, the following language is substituted for paragraph (a):

§ 1124.83 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to § 1124.82 the market administrator shall reduce the uniform price computed pursuant to § 1124.71(a) and the uniform price for base milk computed pursuant to § 1124.71(b)(2) by the location differential applicable at the plant where such milk was first physically received from producers, and the uniform prices of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1124.52; and

[F.R. Doc. 69-12934; Filed, Oct. 30, 1969; 8:45 a.m.]