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Part I

(Part II begins on page 4901)

Agencies in this issue—

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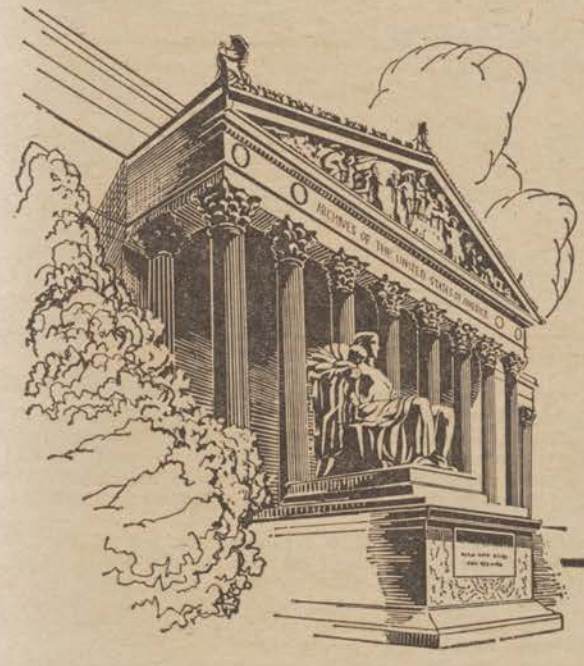

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List of CFR Parts Affected

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, 1970, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Deputy Assistant Secretary for Community and Field Services and one position of Deputy Assistant Secretary for Community Development and Director, Center for Community Planning, are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraphs (12) and (13) are added to paragraph (n) of § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Community and Field Services.* * * *

(12) One Deputy Assistant Secretary for Community and Field Services.

(13) One Deputy Assistant Secretary for Community Development and Director, Center for Community Planning.

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

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

[F.R. Doc. 70-3351; Filed, Mar. 19, 1970; 8:46 a.m.]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Deputy Associate Director for Public Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (12) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

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

(13) One Deputy Associate Director for Public Affairs.

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

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

[F.R. Doc. 70-3350; Filed, Mar. 19, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the State of Minnesota is deleted from the introductory portion of paragraph (e); subparagraph (e)(8) relating to the State of Minnesota is deleted; and the State of Minnesota is added to the list of hog cholera eradication States contained in § 76.2(f).

2. In § 76.2, the State of Michigan is added to the list of hog cholera free States contained in § 76.2(g).

3. In § 76.2, subparagraph (e)(10) relating to the State of Missouri is amended to read:

(e) * * *

(10) *Missouri.* (i) The adjacent portions of Dunklin and Stoddard Counties bounded by a line beginning at the junction of State Highway U and the Missouri-Arkansas State line; thence, following State Highway U in an easterly direction to State Highway 25; thence, following State Highway 25 in a southerly direction to U.S. Highway 62; thence, following U.S. Highway 62 in a westerly direction to State Highway 53; thence, following State Highway 53 in a southeasterly direction to State Highway B; thence, following State Highway B in a westerly direction to State Highway BB; thence, following State Highway BB in a westerly direction to the Missouri-Arkansas State line; thence, following the Missouri-Arkansas State line in a generally northerly direction to its junction with State Highway U.

(ii) The adjacent portions of Chariton, Macon, and Randolph Counties bounded by a line beginning at the junction of County Road W and State Highway 129; thence, following County Road W in a generally easterly direction to State Highway 3; thence, following State Highway 3 in a southeasterly direction to the Middle Fork of the Chariton River; thence, following the west bank of the Middle Fork of the Chariton River in a northerly direction to Concord Church Gravel Road; thence, following Concord Church Gravel Road in a generally westerly direction to the Chariton River; thence, following the east bank of the Chariton River in a southwesterly direction to State Highway 129; thence, following State Highway 129 in a southeasterly direction to its junction with County Road W.

4. In § 76.2, in subparagraph (e)(14) relating to the State of Oklahoma, a new subdivision (iii) relating to Garfield County is added to read:

(e) * * *

(14) *Oklahoma.* * * *

(iii) That portion of the city of Enid in Garfield County bounded by a line beginning at the junction of U.S. Highway 81 and Chestnut Street; thence, following Chestnut Street in an easterly direction to 30th Street; thence, following 30th Street in a southerly direction to South Gate Road; thence, following South Gate Road in a westerly direction to U.S. Highway 81; thence, following U.S. Highway 81 in a northerly direction to its junction with Chestnut Street.

5. In § 76.2, in subparagraph (e)(19) relating to the State of Virginia, subdivision (iii) relating to Goochland County is deleted, and a new subdivision (iii) relating to King William and Hanover Counties is added to read:

(e) * * *

(19) *Virginia.* * * *

(iii) The adjacent portions of King William and Hanover Counties bounded by a line beginning at the junction of Secondary Highway 605 and U.S. Highway 360; thence, following U.S. Highway 360 in a southwesterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a northwesterly direction to Secondary Highway 615; thence, following Secondary Highway 615 in a northeasterly direction to Secondary Highway 614; thence, following Secondary Highway 614 in an easterly direction to Secondary Highway 604; thence, following Secondary Highway 604 in a southeasterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a southeasterly direction to its junction with U.S. Highway 360.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Chariton, Macon, and Randolph Counties in Missouri; a portion of Garfield County in Oklahoma; and portions of King William and Hanover Counties

in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to such counties.

The amendments also exclude portions of Chippewa and Kandiyohi Counties in Minnesota, and a portion of Goochland County in Virginia from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

The foregoing amendments also add the State of Minnesota to the list of hog cholera eradication States in § 76.2(f) and add the State of Michigan to the list of hog cholera free States in § 76.2(g).

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of March 1970.

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

[F.R. Doc. 70-3400; Filed, Mar. 19, 1970; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-17—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

Miscellaneous Amendments

Subpart 101-17.7 is amended to (1) exclude, in addition to the Department of Defense exclusions, certain buildings and facilities on other military reservations, (2) add a definition of the term "alteration," and (3) change the name of the "United States of America Standards Institute" to "American National Standards Institute, Inc."

The table of contents for Part 101-17 is amended to revise entry 101-17.702 as follows:

101-17.702 Definitions.

Subpart 101-17.7—Accommodations for the Physically Handicapped

1. Section 101-17.702 is revised to read as follows:

§ 101-17.702 Definitions.

The following definitions shall apply to this Subpart 101-17.7:

(a) "Building" means any building or facility (other than (a) residential structures, (b) buildings, structures, and facilities of the Department of Defense, and (c) any other building or facility on a military reservation designed and constructed primarily for use by able-bodied military personnel) the intended use for which will require either that such building or facility be accessible to the public, or may result in the employment therein of physically handicapped persons, which is to be:

(1) Constructed or altered by or on behalf of the United States;

(2) Leased in whole or in part by the United States after August 12, 1968, if constructed or altered in accordance with plans and specifications of the United States; or

(3) Financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan.

(b) "Alteration" means repairing, improving, remodeling, extending, or otherwise changing a building.

2. Section 101-17.703 is revised to read as follows:

§ 101-17.703 Standards.

Except as otherwise provided in § 101-17.704, every building designed, constructed, or altered after September 2, 1969, shall be designed, constructed, or altered in accordance with the minimum standards contained in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, Number A117.1—1961," approved by the American Standards Association, Inc. (subsequently changed to American National Standards Institute, Inc.).

(Sec. 205(c), 63 Stat. 390; U.S.C. 486(c); and Public Law 90-480)

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

Dated: March 13, 1970.

ROD KREGER,
Acting Administrator
of General Services.

[F.R. Doc. 70-3376; Filed, Mar. 19, 1970; 8:48 a.m.]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.3—Procurement From GSA Supply Depots

JUSTIFICATION IN SUPPORT OF REQUESTS FOR WAIVER OF REQUIREMENTS FOR USING GSA SOURCES OF SUPPLY

This amendment provides more specific guidance concerning the justification statement which must accompany each agency request for GSA waiver of applicable requirements for procuring needed items listed in GSA Federal Supply Stock Catalogs or available through Federal Supply Schedule contracts. Also, the Federal Supply Service ZIP code is revised.

Section 101-26.301-1 is amended by revising the postal address ZIP code contained in paragraph (c) and by adding a new paragraph (d) as follows:

§ 101-26.301-1 Similar items.

* * * * *

(c) Requests for waivers, including those involving Federal Supply Schedule items (see § 101-26.401-3), shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, and, if considered justified, will be approved. If disapproved, the requesting office will be so notified. Such requests shall contain:

* * * * *

(d) (1) Personal preference and subjective evaluations are not acceptable as sufficient justification for a waiver.

(2) The fact that action to procure a similar item has been initiated will not influence GSA action on a request for waiver.

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

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

Dated: March 13, 1970.

ROD KREGER,
Acting Administrator
of General Services.

[F.R. Doc. 70-3377; Filed, Mar. 19, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 68-WE-14-AD, Amdt. 39-949]

SUBCHAPTER C—AIRCRAFT

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Airplane Co. Models 707, 720, and 727

Correction

In F.R. Doc. 70-2725 appearing on page 4199, in the issue of Friday, March 6, 1970, the bracket should read as set forth above.

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 10163; Amdt. 693]

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 NDB (ADF)

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	
HUT VOR	LOM	Direct	2900	T-dn*	300–1	300–1	200–½
Sterling Int	LOM	Direct	3200	C-dn	500–1	500–1	500–1½
Buhler Int	LOM	Direct	4000	S-dn-13	500–1	500–1	500–1
Burrton Int	LOM	Direct	4000	A-dn	800–2	800–2	800–2
Groveland Int	LOM	Direct	3200				

Procedure turn N side of crs, 309° Outbnd, 129° Inbnd, 2900′ within 10 miles of LOM.
Minimum altitude over facility on final approach crs, 2700′.
Crs and distance, facility to airport, 129°—4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing LOM, proceed to HUT VOR climbing to 3000′ via 129° bearing LOM and R 053° of HUT VOR.
CAUTION: *When weather below 1600–2, IFR departures to NE, E, and SE climb to 3500′ before turning toward 3049′ tower 3.5 miles E of airport.
MSA within 25 miles of facility: 000°–090°—4000°; 090°–180°—4100′; 180°–360°—3100′.

City, Hutchinson; State, Kans.; Airport name, Hutchinson Municipal; Elev., 1542′; Fac. Class., LOM; Ident., HU; Procedure No. NDB (ADF) Runway 13, Amdt. 5; Eff. date, 9 Apr. 70; Sup. Amdt. No. ADF 1, Amdt. 4; Dated, 10 Dec. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

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

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

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
R 116°, HUT VOR clockwise	R 213°, HUT VOR	Via 6-mile DME Arc.	3000	T-dn*	300–1	300–1	200–½
				C-dn	500–1	500–1	500–1½
R 287°, HUT VOR counterclockwise	R 213°, HUT VOR	Via 6-mile DME Arc.	3000	S-dn-3	500–1	500–1	500–1
				A-dn	800–2	800–2	800–2
-mile DME Fix, R 213° HUT VOR	HUT VOR (final)	Direct	2800				

Procedure turn W side of crs, 213° Outbnd, 033° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2800′.
Crs and distance, facility to airport, 033°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5 miles after passing VOR, climb to 4000′ on R 033° within 20 miles or, when directed by ATC, make left turn, climb to 2900′, proceed to HU LOM.
CAUTION: *When weather below 1600–2, IFR departure to NE, E, and SE climb to 3500′ before turning toward 3049′ tower 3.5 miles E of airport.
MSA within 25 miles of facility: 000°–090°—4100′; 090°–180°—3500′; 180°–270°—3100′; 270°–360°—3100′.

City, Hutchinson; State, Kans.; Airport name, Hutchinson Municipal; Elev., 1542′; Fac. Class., L-BVORTAC; Ident., HUT; Procedure No. VOR Runway 3, Amdt. 12; Eff. date, 9 Apr. 70; Sup. Amdt. No. VOR 1, Amdt. 11; Dated, 10 Dec. 66

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:

Olney, Ill.—Olney Noble, NDB (ADF) Runway 3, Orig., 30 Mar. 1967 (established under Subpart C).
Phoenix, Ariz.—Phoenix Sky Harbor Municipal, ADF 1, Amdt. 1, 20 Mar. 1965 (established under Subpart C).
Phoenix, Ariz.—Phoenix Sky Harbor Municipal, VOR 1, Amdt. 13, 14 Nov. 1964 (established under Subpart C).

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

Fort Bridger, Wyo.—Fort Bridger, VOR 1, Amdt. 4, 27 May 1965, canceled, effective 9 Apr. 1970.
Marion, Ind.—Marion Municipal, VOR Runway 33, Orig., 10 Feb. 1968, canceled, effective 9 Apr. 1970.

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

Park Rapids, Minn.—Park Rapids Municipal, TerVOR-31, Amdt. 2, 10 Sept. 1966 (established under Subpart C).

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

Phoenix, Ariz.—Phoenix Sky Harbor Municipal, VOR/DME No. 2, Amdt. 1, 27 July 1963 (established under Subpart C).

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

Phoenix, Ariz.—Phoenix Sky Harbor Municipal, VOR/DME No. 1, Amdt. 2, 14 Nov. 1964, canceled, effective 9 Apr. 1970.

7. 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: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
HUT VOR	LOM	Direct	2900	T-dn*	300-1	300-1	200-½
Sterling Int	LOM	Direct	3200	C-dn	500-1	500-1	500-1½
Buhler Int	LOM	Direct	4000	S-dn-13@	200-½	200-½	200-½
Burrton Int	LOM	Direct	4000	A-dn	600-2	600-2	600-2
Groveland Int	LOM	Direct	3200				

Procedure turn N side of crs, 309° Outbnd, 129° Inbnd, 2900′ within 10 miles of LOM.
Minimum altitude at glide slope interception Inbnd, 2900′.
Altitude of glide slope and distance to approach end of runway at OM, 2831′—4 miles; at MM, 1765′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished proceed to HUT VOR climbing to 3000′ via the SE crs of HUT ILS and R 053° of HUT VOR.
CAUTION: *When weather below 1600-2, IFR departures to NE, E, and SE climb to 3500′ before turning toward 3049′ tower 3.5 miles E of airport.
@500-¾ required when glide slope not utilized, 500-½ authorized with operative ALS, except for 4-engine turbojets.

City, Hutchinson; State, Kans.; Airport name, Hutchinson Municipal; Elev., 1542′; Fac. Class., ILS; Ident., I-HUT; Procedure No. ILS Runway 13, Amdt. 6; Eff. date, 9 Apr. 70; Sup. Amdt. No. ILS-13, Amdt. 5; Dated, 10 Dec. 66

HUT VOR	Storage Int	Direct	4000	T-dn*	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-31@	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 129° Outbnd, 309° Inbnd, 3300′ within 10 miles of Storage Int.
Minimum altitude over Storage Int on final approach crs, 3000′.
Crs and distance, Storage Int to airport, 309°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing Storage Intersection, climb on NW crs HUT ILS to 2900′ and proceed to LOM, or when directed by ATC, proceed to HUT VOR climbing to 3000′ via the NW ILS crs to HU LOM and thence via the 354° radial of HUT VOR.
NOTES: (1) Final approach from holding pattern at Storage Int not authorized. Procedure turn required. Maintain 4000′ until established outbound SE of Storage Int. (2) Dual VOR receivers required.
CAUTION: *When weather below 1600-2, IFR departures to NE, E, and SE climb to 3500′ before turning toward 3049′ tower 3.5 miles E of airport.
@400-¾ authorized with operative HIRL, except for 4-engine turbojets.

City, Hutchinson; State, Kans.; Airport name, Hutchinson Municipal; Elev., 1542′; Fac. Class., ILS; Ident., I-HUT; Procedure No. LOC (BC) Runway 31, Amdt. 6; Eff. date, 9 Apr. 70; Sup. Amdt. No. ILS-31, Amdt. 5; Dated, 10 Dec. 66

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

Phoenix, Ariz.—Phoenix Sky Harbor Municipal, Radar 1, Amdt. 1, 8 July 1967 (established under Subpart C).

9. 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: 7.7 miles after passing REG VORTAC
			Climbing left turn to 3000′ direct to ATL VORTAC and hold. Supplementary charting information: Hold S, 1 minute, right turns, 017° Inbnd. REIL Runway 3. HIRLS Runways 9R, 9L, 15, 27R, 27L, 33. VASI Runways 27L, 27R. Chart as backup for VOR Runway 27R. Runway 27L, TDZ elevation, 981′.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500′ within 10 miles of REG VORTAC.
FAF, REG VORTAC. Final approach crs, 263°. Distance FAF to MAP 7.7 miles.
Minimum altitude over REG VORTAC, 2500′.
MSA: 090°–180°—2300′; 180°–270°—2400′; 270°–090°—3100′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27L	1500	RVR 40	519	1500	RVR 40	519	1500	RVR 40	519	1500	RVR 50	519
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1580	1	556	1580	1	556	1580	1½	556	1600	2	576

Takeoff RVR 24′, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others. Alternate—Standard.

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident. REG; Procedure No. VOR Runway 27L, Amdt. Orig.; Eff. date, 9 Apr. 70

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 7.2 miles after passing REG VORTAC.
			Climb to 3000′ to Chattahoochee Int via R 267° REG VORTAC and hold. Supplementary charting information: Hold W, 1 minute, left turns, 087° Inbnd. REIL Runway 3. HIRLS Runways 9R, 9L, 15, 27R, 27L, 33. VASI Runways 27L, 27R. Chart as backup for VOR Runway 27L. Runway 27R, TDZ elevation, 996′.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500′ within 10 miles of REG VORTAC.
FAF, REG VORTAC. Final approach crs, 270°. Distance FAF to MAP, 7.2 miles.
Minimum altitude over REG VORTAC, 2500′.
MSA: 090°–180°—2300′; 180°–270°—2400′; 270°–090°—3100′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27R	1460	¾	464	1460	¾	464	1460	¾	464	1460	1	464
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	496	1520	1	496	1520	1	496	1580	2	556

Takeoff RVR 24′. Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others. Alternate—Standard.

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident. REG; Procedure No. VOR Runway 27R, Amdt. Orig.; Eff. date, 9 Apr. 70.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.1 miles after passing FBR VOR.
				Climbing left turn to 9000' direct FBR VORTAC and hold.* Supplementary charting information: *Hold W, 1 minute, left turns, 028° Inbnd. Final approach to intersection of runways. FBR radio 122.1R.

Procedure turn W side of crs, 208° Outbnd, 028° Inbnd, 9700' within 10 miles of FBR VOR.
FAF, FBR VOR. Final approach crs 028°. Distance FAF to MAP, 1.1 miles.
Minimum altitude over FBR VOR, 8200'.
MSA: 000°-090°—9000'; 090°-270°—12,000'; 270°-360°—9300'.
NOTES: (1) Use Rock Springs altimeter setting. (2) Final approach from holding pattern not authorized; procedure turn required.
$Night minimums not authorized.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	
C$	7760	1	744	7760	1	744	7760	1¼	744		NA	

Takeoff Standard. Alternate—Not authorized.

City, Fort Bridger; State, Wyo.; Airport name, Fort Bridger; Elev., 7016'; Fac. Ident., FBR; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 9 Apr. 70

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: PKD VOR.
DTL NDB	PKD VOR	Direct	3000	Climb to 3000' on R 300 within 10 miles; return to VOR. Supplementary charting information: 300' displaced threshold Runway 31. LRCO 122.1, 123.6. Runway 31, TDZ elevation, 1443'.

Procedure turn N side of crs, 125° Outbnd, 305° Inbnd, 3000' within 1 miles of PKD VOR.
Final approach crs, 305°.
MSA: 000°-090°—3400'; 090°-270°—2900'; 270°-360°—3000'.
CAUTION: Runways 5/23 and 18/36 unlighted.
NOTES: (1) When Park Rapids altimeter setting not available, use Alexandria, Minn., altimeter setting and all MDA's raised 300' except fo operators with approved weather reporting service. (2) Inoperative table does not apply to REIL Runway 31.
*Standard alternate minimums for operators with approved weather reporting service.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31	1860	1	417	1860	1	417	1860	1	417	1860	1	417
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1920	1	477	1920	1	477	1920	1¼	477	2120	2	677

Takeoff Standard. Alternate—Not authorized.

City, Park Rapids; State, Minn.; Airport name, Park Rapids Municipal; Elev., 1443'; Fac. Ident. PKD; Procedure No. VOR Runway 31, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. Ter VOR-31, Amdt. 2; Dated, 10 Sept. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.3 miles after passing PHX VOR.
PHX, R 325° CW	PHX, R 052°	Via 7-mile Arc PHX, R 036° lead radial.	4500	Climb straight ahead to 3000', climbing right turn to 5000' direct to PHX VOR:
Grapevine Int	Lake Int	Direct	7000	Supplementary charting information.
Lake Int	Falcon Int	Direct	4500	Chart PHX, R 075° to Apache Int.
Falcon Int	PHX VOR (NOPT)	Direct	2700	Runway 26L, TDZ elevation, 1122'.
Apache Int	PHX VOR (NOPT)	Direct	2700	

Procedure turn E side of crs, 032° Outbnd, 232° Inbnd, 4000' within 10 miles of PHX VOR.
FAF, PHX VOR. Final approach crs, 255°. Distance FAF to MAP, 5.3 miles.
Minimum altitude over PHX VOR, 700'; over Hayden Int, 1820'.
MSA: 010°–100°—6100'; 100°–190°—4200'; 190°–280°—5600'; 280°–010°—5900'.
NOTE: ASR. Aircraft may be vectored to the PHX R 075° for straight-in approach.
#Air carrier will not reduce takeoff visibility due to local conditions Runways 8L/26R.
%IFR departure procedures: Takeoff Runway 26L/R, climb westbound on V–16 to 3000'. Westbound continue climb on crs; eastbound, northbound, and southbound continue climb direct PHX VOR. Takeoff Runway 8L/R, climb heading 070° to 3000', continue climb direct PHX VOR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-26L	1820	1	698	1820	1	698	1820	1¼	698	1820	1½	698
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1820	1	692	1820	1	692	1820	1½	692	1880	2	752
	VOR/DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-26L	1560	1	438	1560	1	438	1560	1	438	1560	1	438
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1600	1	472	1600	1	472	1600	1½	472	1880	2	572

Takeoff Runway 8L 600–1; 26R 500–1; Runway 8R/26L—Standard.#% Alternate—Standard.

City, Phoenix; State, Ariz.; Airport name, Phoenix Sky Harbor Municipal; Elev., 1128'; Fac. Ident., PHX; Procedure No. VOR Runway 26L, Amdt. 14; Eff. date, 9 Apr. 70; Sup. Amdt. No. VOR 1, Amdt. 13; Dated, 14 Nov. 64

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: PHX R 255°/7-mile DME Fix
Avondale Int	Fowler Int	Via heading 120° and PHX, R 255°, 7 miles.	4000	Climb to 5000' direct PHX VORTAC and hold.*
PHX R 147°	PHX, R 240°	16-mile Arc	5000	Supplemental Charting Information:
PHX VOR	PHX, R 240°/16-mile DME	Direct	5000	*Hold E, 1 minute, right turns, 255° Inbnd.
PHX R 240°, CW	Fowler Int	16-mile Arc PHX, R 247° lead radial.	4000	Chart PHX R 255°/7-mile DME at MAP. Runway 8R, TDZ elevation, 1112'.
PHX R 325°, CCW	PHX, R 275°	16-mile Arc	5000	
PHX R 015°, CCW	PHX, R 325°	16-mile Arc	6000	
PHX R 275°, CCW	Fowler Int	16-mile Arc PHX, R 263° lead radial.	4000	

Procedure turn not authorized.
Approach crs (profile) starts at Fowler Int.
Final approach crs, 255°.
Minimum altitude over Fowler Int., 4000'; over Reynolds Int., 2600'; over Carver Int, 1800'.
MSA: 010°–100°—6100'; 100°–190°—4200'; 190°–280°—5600'; 280°–010°—5900'.
NOTE: ASR.
#Air carrier will not reduce takeoff visibility due to local conditions Runways 8L/26R.
%IFR departure procedures: Takeoff Runway 26L/R, climb westbound on V–16 to 3000'; westbound, continue climb on crs; eastbound, northbound, and southbound continue climb direct PHX VOR. Takeoff Runway 8L/R, climb heading 070° to 3000', continue climb direct PHX VOR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-8R	1540	1	428	1540	1	428	1540	1	428	1540	1	428
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1600	1	472	1600	1	472	1600	1½	472	1880	2	752

Takeoff #%Runway 8L, 600–1; Runway 26R, 500–1; Runways 8R/26L, Standard Runways. Alternate—Standard.

City, Phoenix; State, Ariz.; Airport name, Phoenix Sky Harbor Municipal; Elev., 1128'; Fac. Ident, PHX; Procedure No. VOR/DME Runway 8R, Amdt. 2; Eff. date, 9 Apr 70; Sup. Amdt. No. VOR/DME 2, Amdt. 1; Dated, 27 July 63

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR/DME—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 11.2-mile DME Fix.
RMT VORTAC, R 354° CW	RMT VORTAC, R 057°	7-mile Arc	1800	Climbing left turn to 1800', proceed to RMT VORTAC via R 237° and hold.
RMT VORTAC, R 174° CCW	RMT VORTAC, R 057°	7-mile Arc	1800	
7-mile DME Fix	RMT VORTAC (NOPT)	RMT, R 057°	1800	Supplementary charting information: Hold NE, 1 minute, right turns, 237° Inbnd. Final approach crs to runway threshold.

Procedure turn S side of crs, 057° Outbnd, 237° Inbnd, 1800' within 10 miles of RMT VORTAC.
FAF, Freeway Int. Final approach crs, 237°. Distance FAF to MAP, 3.2 miles.
Minimum altitude over RMT VORTAC, 1800'; over Freeway Int (8-mile DME), 1200'.
MSA: 000°–090°—1700'; 090°–180°—2000'; 180°–360°—1700'.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–22	460	1	302	460	1	302	460	1	302	460	1¼	302
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	520	1	362	620	1	462	620	1¼	462	720	2	562

Takeoff Standard. Alternate—Standard.

City, Rocky Mount; State, N.C.; Airport name, Rocky Mount-Wilson; Elev., 158'; Fac. Ident., RMT; Procedure No. VOR/DME Runway 22, Amdt. Orig.; Eff. date, 9 Apr. 70

10. 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: 8.8 miles after passing ADM VORTAC.
DUC VOR	ADM VORTAC	Direct	2600	Climb to 2800' on R 046° within 20 miles. Supplementary charting information: Tower 1.7 miles N 1075'.

Procedure turn E side of crs, 198° Outbnd, 018° Inbnd, 2700' within 10 miles of ADM VORTAC.
FAF, Ardmore VORTAC. Final approach crs, 046°. Distance FAF to MAP, 8.8 miles.
Minimum altitude over ADM VORTAC, 2000'; over Autry Int, 1360'.
MSA: 000°–090°—2800'; 090°–180°—2900'; 180°–270°—2500'; 270°–360°—2700'.
#Night operations not authorized Runway 4/22.
*When control zone not effective, the following limitations apply except for operators with approved weather reporting service: (1) Use Perrin AFB altimeter setting; (2) circling and straight-in MDA's increased 180'; (3) alternate minimums not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–4*#	1360	1	598	1360	1	598	1360	1	598	1360	1¼	598
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	1360	1	598	1360	1	598	1380	1¼	618	1400	2	638
	VOR/DME or VOR/ADF Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–4*#	1200	1	438	1200	1	438	1200	1	438	1200	1	438
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	1300	1	538	1300	1	538	1380	1¼	618	1400	2	638
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Ardmore; State, Okla.; Airport name, Ardmore Municipal; Elev., 762'; Fac. Ident., ADM; Procedure No. VOR Runway 4, Amdt. 9; Eff. date, 9 Apr. 70; Sup. Amdt. No. 8; Dated, 4 Dec. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 miles after passing ADM VOR TAC.
			Climb to 2500′ on ADM VORTAC, R 150° within 20 miles.

Procedure turn E side of crs, 320° Outbnd, 140° Inbnd, 2700′ within 10 miles of ADM VOR.
FAF, ADM VOR. Final approach crs, 140°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over ADM VOR, 1800′.
MSA: 000°-090°—2800′; 090°-180°—2900′; 180°-270°—2500′; 270°-360°—2700′.
*When control zone not effective, increase circling MDA 160′ and use Perrin AFB altimeter setting.
%N takeoff maintain runway heading until reaching 1300′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS	
C*	1540	1	700	1540	1	700	1580	1½	740	NA	
A	Not authorized.		T 2-eng. or less— Standard.%				T over 2-eng.— Standard.%				

City, Ardmore; State, Okla.; Airport name, Downtown Ardmore; Elev., 840′; Fac. Ident. ADM; Procedure No. VOR-1, Amdt. 4; Eff. date, 9 Apr. 70; Sup. Amdt. No. 3; Dated, 4 Dec. 69

Terminal routes			Minimum altitudes (feet)	Missed approach
From—	To—	Via		MAP: 8.1 miles after passing ATL VOR TAC.
Chattahoochee Int	ATL VORTAC	Direct	2500	Climbing right turn to 2500′ to REG VORTAC and hold.
BRU NDB	ATL VORTAC	Direct	2500	
R 263°, ATL VORTAC CCW	R 195°, ATL VORTAC	8-mile Arc	2500	Supplementary charting information:
R 097°, ATL VORTAC CW	R 195°, ATL VORTAC	8-mile Arc	2500	Hold E, 1 minute, right turns, 269° Inbnd.
8-mile Arc	ATL VORTAC (NOPT)	ATL, R 195°	2300	REILS Runway 3.
				HIRLS Runways 9R, 9L, 15, 27R, 27L, 33.
				Runway 3, TDZ elevation, 1008′.

Procedure turn E side of crs, 195° Outbnd, 015° Inbnd, 2500′ within 10 miles of ATL VORTAC.
FAF, ATL VORTAC. Final approach crs, R 015°. Distance FAF to MAP, 8.1 miles.
Minimum altitude over ATL VORTAC, 2500′; over Riverdale Int, 2000′.
MSA: 000°-090°—3100′; 090°-180°—2300′; 180°-270°—2400′; 270°-360°—2900′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-3	1300	1	292	1300	1	292	1300	1	292	1300	1	292
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A	Standard.		T 2-eng. or less—RVR 24′, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others.				T over 2-eng. RVR 24′, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others.					

City, Atlanta; State, Ga. Airport name, Atlanta; Elev., 1024′; Fac. Ident., ATL; Procedure No. VOR Runway 3, Amdt 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig.; Dated, 6 Nov. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	Map: 4.9 miles after passing Bethesda Int/12-mile DME.
CTW VOR	Bethesda Int/12-mile DME	Direct	3000	Climb to 3000', left turn to intercept ZZV VORTAC R 087°. Proceed to Lore City Int and hold.
Lore City Int	Bethesda Int/12-mile DME	DR 045° and R 271° AIR VORTAC.	3000	
AIR VORTAC	Bethesda Int/12-mile DME (NOPT)	Direct	3000	Supplementary charting information: Hold E, 1 minute, right turns, 267° Inbnd. Runway 27, TDZ elevation, 1313'.

Procedure turn N side of crs, 091° Outbnd, 271° Inbnd, 3000' within 10 miles of Bethesda Int/12-mile DME.
FAF, Bethesda Int/12-mile DME. Final approach crs, 271°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over Bethesda Int, 3000'.
MSA: 000°-360°—3100'.
NOTE: Use Wheeling, W. Va., altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27	1820	1	507	1820	1	507	1820	1¼	507		NA	
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1860	1	547	1860	1	547	1860	1½	547		NA	
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Barnesville; State, Ohio; Airport name, Bradfield; Elev., 1313'; Fac. Ident., AIR; Procedure No. VOR Runway 27, Amdt. 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig; Dated, 22 May 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing BJI VOR.
				Climb to 3100' on R 131° within 10 miles return to BJI VOR. Supplementary charting information: LRCO 122.1, 123.6. Runway 13, TDZ elevation, 1389'.

Procedure turn S side of crs, 311° Outbnd, 131° Inbnd, 3100' within 10 miles of BJI VOR.
FAF, BJI VOR. Final approach crs, 131°. Distance FAF to MAP, 5 miles.
Minimum altitude over BJI VOR, 2900'.
MSA: 000°-090°—2600'; 090°-180°—2900'; 180°-360°—3000'.
NOTE: Use Hibbing altimeter setting when Bemidji contro' zone not effective, and all MDA's increased 400' except for operators with approved weather reporting service.
*Alternate minimums not authorized when control zone not effective, except 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	MDA	VIS	HAT
S-13	1700	1	311	1700	1	311	1700	1	311	1700	1	311
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1740	1	351	1840	1	451	1840	1½	451	1940	2	551
A	Standard.*		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Bemidji; State, Minn.; Airport name, Municipal; Elev., 1389'; Fac. Ident. BJI; Procedure No. VOR Runway 13, Amdt. 4; Eff. date, 9 Apr. 70; Sup. Amdt. No. 3; Dated 16 Jan. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 8.5 miles after passing RMG VOR.
RMG NDB	RMG VOR	Direct	3300	Climbing right turn to 3000′ proceed to RMG VOR via R 188° and hold.
Dalton Int	RMG VOR	Direct	3500	Supplementary charting information: Hold N 1 minute, right turns, 188° Inbnd. Final approach crs to center of landing area.
Kennesaw Int	RMG VOR	Direct	3000	

Procedure turn E side of crs, 008° Outbnd, 188° Inbnd, 3000′ within 10 miles of RMG VOR.
FAF, RMG VOR. Final approach crs, 188°. Distance FAF to MAP, 8.5 miles.
Minimum altitude over RMG VOR, 2000′.
MSA: 000°-090°—3900′; 090°-180°—3300′; 180°-270°—3700′; 270°-360°—3500′.
NOTES: (1) Use Rome, Ga., altimeter setting. (2) No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	1700	1	727	1700	1	727	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Cedartown; State, Ga.; Airport name, Cornelius-Moore Field; Elev., 973′; Fac. Ident., RMG; Procedure No. VOR-1, Amdt. 2; Eff. date, 9 Apr. 70; Sup. Amdt. No. 1; Dated, 24 July 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 10 miles after passing CTF VOR.
				Climbing left turn to 2100′ direct to CTF VOR.
				Supplementary charting information: Final approach crs intercepts runway centerline 3000′ from threshold.
				Runway 7, TDZ elevation, 240′.

Procedure turn N side of crs, 270° Outbnd, 090° Inbnd, 2100′ within 10 miles of CTF VOR.
FAF, CTF VOR. Final approach crs, 080°. Distance FAF to MAP, 10 miles.
Minimum altitude over CTF VOR, 2100′
MSA: 000°-090°—2000′; 090°-180°—1900′; 180°-360°—2000′.
NOTE: Use FLO FSS altimeter setting. No weather reporting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAT	MDA	VIS	HAT	VIS	VIS
S-7	1240	3	1000	1240	3	1000	NA	NA
	MDA	VIS	HAA	MDA	VIS	HAA		
C	1240	3	1000	1240	3	1000	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.	

City, Cheraw; State, S.C.; Airport name, Cheraw Municipal; Elev., 240′; Fac. Ident., CTF; Procedure No. VOR Runway 7, Amdt. 2; Eff. date, 9 Apr. 70; 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: 9.8 miles after passing CVA VOR.
ML LOM	CVA VOR	Direct	2600	Climb to 2300′ within 10 miles, left turn to CVA VOR. Supplementary charting information: Runway 3, TDZ elevation 700′. Chart 767′ windmill 1500′ NW.

Procedure turn W side of crs, 220° Outbnd, 040° Inbnd, 2300′ within 10 miles of CVA VOR.
FAF, CVA VOR. Final approach crs, 040°. Distance FAF to MAP, 9.8 miles.
Minimum altitude over CVA VOR, 2300′.
MSA: 000°–090°—2200′; 090°–180°—2900′; 180°–270°—2700′; 270°–360°—2400′.
Radar vectoring.
Use Moline, Ill., altimeter setting, except operators with approved weather reporting service.
*Operators with approved weather reporting service may reduce all MDAs by 100′.
#Standard alternate minimums authorized for operators with approved weather reporting service.
%IFR departure procedures: Runway 32—Maintain runway heading to 900′ MSL before turning on crs. Air carriers will not reduce takeoff visibility due to local conditions.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-3*	1360	1	660	1360	1	660	1360	1¼	660	1360	1½	660
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	1360	1	653	1360	1	653	1360	1½	653	1360	2	653

Takeoff Standard.% Alternate—Not authorized.#

City, Clinton; State, Iowa; Airport name, Clinton Municipal; Elev., 707′; Fac. Ident. CVA; Procedure No. VOR Runway 3; Amdt. 2; Eff date, 9 Apr. 70; Sup. Amdt. No. 1; Dated, 6 Nov. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.9 miles after passing DHN VOR TAC.
R 115°, DHN VORTAC CW	R 154°, DHN VORTAC	10-mile Arc	2500	Right turn, climb to 2000′ to Abbeville Int via DHN VORTAC R 019° and hold.
R 230°, DHN VORTAC CCW	R 154°, DHN VORTAC	10-mile Arc	2000	
10-mile Arc	DHN VORTAC (NOPT)	R 154°	1400	Supplementary charting information: Hold N, 1 minute, left turns, 199° Inbnd. Chart: Water tank 5 5′ on airport.

Procedure turn W side of crs, 154° Outbnd, 334° Inbnd, 2000′ within 10 miles of DHN VORTAC.
FAF, DHN VORTAC. Final approach crs, 334°. Distance FAF to MAP, 1.9 miles.
Minimum altitude over DHN VORTAC, 1400′.
MSA: 000°–180°—2600′; 180°–270°—1800′; 270°–360°—2500′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	806	1	460	860	1	460	860	1½	460	960	2	560
A	Standard.		T 2-Eng. or less—Standard.				T over 2-eng.—Standard.					

City, Dothan; State, Ala.; Airport name, Dothan; Elev., 400′; Fac. Ident., DHN; Procedure No. VOR-1, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. 2; Dated, 29 Jan. 70

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.8 miles after passing MIA VORTAC.
				Climb to 1500′ on R 108° within 15 miles. Supplementary charting information: Final approach crs intercepts at runway threshold. Runway 9L, TDZ elevation, 9′.

Procedure turn not authorized. Approach crs (profile) starts at MIA VORTAC.
FAF, MIA VORTAC. Final approach crs, 108°. Distance FAF to MAP, 9.8 miles.
Minimum altitude over MIA VORTAC, 1500′; over Alligator Int, 1000′.
MSA: 000°–270°—2000′; 270°–360°—1200′.
NOTES: (1) Radar vectoring. (2) Use Miami FSS altimeter setting when control zone not effective.
%Takeoff not authorized all other runways.
**Alternate minimums not authorized when control zone not effective.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	1000	1¼	991	1000	1½	991	1000	1¾	991	1000	2	991
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1000	1¼	991	1000	1½	991	1000	1¾	991	1000	2	991
	VOR/DME/NDB minimums;											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	380	1	371	380	1	371	380	1	371	380	1	371
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	491	500	1	491	500	1½	491	560	2	551
A	1000-2.**		T 2-eng. or less—Standard Runways 9L, 27R, 18L, 36R.%				T over 2-eng.—Standard Runways 9L, 27R, 18L, 36R.%					

City, Miami; State, Fla.; Airport name, Opa Locka; Elev., 9′; Fac. Ident., MIA; Procedure No. VOR Runway 9L, Amdt. 7; Eff. date, 9 Apr. 70; Sup. Amdt. No. 6; Dated 2 Jan. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.8 miles after passing MON VORTAC.
R 088°, MON VORTAC CW	R 149°, MON VORTAC (NOPT)	7-mile ARC MON, R 133° lead radial	1800	Turn right climb to 1800′, direct to MON VORTAC and hold. Supplementary charting information: Hold SE of MON VORTAC on R 149°, 329° Inbnd, right turns, 1 minute. LRCO, 122.1.

Procedure turn E side of crs, 149° Outbnd, 329° Inbnd, 1800′ within 10 miles of MON VORTAC.
FAF, MON VORTAC. Final approach crs, 331°. Distance FAF to MAP, 4.8 miles.
Minimum altitude over MON VORTAC, 1800′.
MSA: 180°–270°—1600′; 270°–180°—1700′.
NOTE: Use Pine Bluff altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	940	1	670	940	1	670	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.	

City, Monticello; State, Ark.; Airport name, Monticello Municipal; Elev., 270′; Fac. Ident. MON; Procedure No. VOR-1, Amdt. 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig; Dated, 13 Nov. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.8 miles after passing FOW VOR.
New Prague Int	FOW VOR	Direct	2700	Climb to 2700′ on R 130° within 10 miles, return to VOR.
Cannon City Int	FOW VOR	Direct	2700	Supplementary charting information:
Hope Int	FOW VOR	Direct	2700	Runway 12, TDZ elevation, 1138′.
Alma City Int	FOW VOR	Direct	2700	

Procedure turn S side of crs, 310° Outbnd, 130° Inbnd, 2700′ within 10 miles of FOW VOR.
FAF, FOW VOR. Final approach crs, 130°. Distance FAF to MAP, 6.8 miles.
Minimum altitude over FOW VOR, 2700′.
MSA: 000°–090°—2600′; 090°–180°—2700′; 180°–270°—2600′; 270°–360°—2600′.
NOTE: Use Rochester, Minn., altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-12	1640	1	502	1640	1	502	1640	1	502	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1760	1	612	1780	1	632	1780	1¼	632	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Owatonna; State, Minn.; Airport name, Owatonna Municipal; Elev., 1148′; Fac. Ident. FOW; Procedure No. VOR Runway 12, Amdt. 4; Eff. date, 9 Apr. 70; Sup. Amdt. No. 3; Dated, 15 Jan. 70

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.2 miles after passing SLN VORTAC.
R 262°, SLN VORTAC CW	R 033°, SLN VORTAC (NOPT)	7-mile Arc	3000	1. Climbing left turn to 3000′ on R 175° SLN VORTAC within 15 miles.
R 086°, SLN VORTAC CCW	R 033°, SLN VORTAC (NOPT)	7-mile Arc	3000	2. Climb to 3000′ to SL LOM.
				Supplementary charting information:
				Runway 17, TDZ elevation, 1245′.

Procedure turn W side of crs, 003° Outbnd, 183° Inbnd, 3000′ within 10 miles of SLN VORTAC.
FAF, SLN VORTAC. Final approach crs, 183°. Distance FAF to MAP, 4.2 miles.
Minimum altitude over SLN VORTAC, 2500′; over 2.5 miles DME Fix R 183°, 1740′.
MSA: 090°–180°—2800′; 180°–270°—3100′; 270°–090°—2900′.
NOTES: (1) Final approach from holding not authorized. Procedure turn required. (2) Restricted area 7 miles SW of airport. (3) Straight-in Category D Day-Night minimums applicable for Category E. Circling Category E Day-Night: MDA 1920, VIS 2, HAA 648.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17	1740	¾	495	1740	¾	495	1740	¾	495	1740	1	495
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1740	1	468	1740	1	468	1740	1¼	468	1840	2	568
	DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-17	1640	¾	395	1640	¾	395	1640	¾	395	1640	1	395
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	428	1740	1	468	1740	1¼	468	1840	2	568
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1272′; Fac. Ident. SLN; Procedure No. VOR Runway 17, Amdt. 5; Eff. date, 9 Apr. 70; Sup. Amdt. No. 4; Dated, 6 June 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	
R 014°, SJT VORTAC CW	R 055°, SJT VORTAC	10-mile Arc SJT, R 044° lead radial.	3500	MAP: 1.8 miles after passing SJT VORTAC. Climb to 4000′ left turn direct SJT VORTAC and hold.
R 102°, SJT VORTAC CCW	R 055°, SJT VORTAC	10-mile arc SJT, R 066° lead radial.	3500	Supplementary charting information: Depict holding NE of SJT VORTAC R 055°, 235° Inbnd, left turns, 1 minute. Runway 21, TDZ elevation, 1905′.
10-mile DME ARC	SJT VOR (NOPT)	R 235°	2500	

Procedure turn E side of crs, 055° Outbnd, 235° Inbnd, 3400′ within 10 miles of SJT VORTAC.
FAF, SJT VORTAC. Final approach crs, 235°. Distance FAF to MAP, 1.8 miles.
Minimum altitude over SJT VORTAC, 2500′.
MSA: 000°-360°—3900′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-21	2280	¾	375	2280	¾	375	2280	¾	375	2280	1	375
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	2320	1	405	2380	1	465	2380	1½	465	2480	2	565
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, San Angelo; State, Tex.; Airport name, Mathis Field; Elev., 1915′; Fac. Ident., SJT; Procedure No. VOR Runway 21, Amdt. 10; Eff. date, 9 Apr. 70; Sup. Amdt. No. 9; Dated, 13 June 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	
R 254°, SGF VORTAC CW	R 013°, SGF VORTAC (NOPT)	7-mile Arc	2800	MAP: 6.7 miles after passing SGF VORTAC. Climb to 2800′ on R 203° SGF VORTAC and proceed to Billings Int. Supplementary charting information: Runway 19, TDZ elevation, 1257′.
R 072°, SGF VORTAC CCW	R 013°, SGF VORTAC (NOPT)	7-mile Arc	2800	
SGF NDB	SGF VORTAC	Direct	2800	

Procedure turn W side of crs, 013° Outbnd, 193° Inbnd, 2800′ within 10 miles of SGF VORTAC.
FAF, SGF VORTAC. Final approach crs, 193°. Distance FAF to MAP, 6.7 miles.
Minimum altitude over SGF VORTAC, 2800′; over 4-mile DME Fix, 1620′.
MSA: 000°-090°—2600′; 090°-180°—4600′; 180°-270°—2800′; 270°-360°—2600′.
NOTE: Inoperative table does not apply for HIRL Runway 19.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-19	1620	1	363	1620	1	363	1620	1	363	1620	1	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	433	1720	1	453	1720	1½	453	1820	2	553
	VOR/DME Minimums:											
	DA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-19	1580	1	323	1580	1	323	1580	1	323	1580	1	323
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	433	1720	1	453	1720	1½	453	1820	2	553
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Springfield; State, Mo.; Airport name, Municipal; Elev., 1267′; Fac. Ident., SGF; Procedure No. VOR Runway 19, Amdt. 10; Eff. date, 9 Apr. 70; Sup. Amdt. No. 9; Dated, 29 Aug. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.5 miles after passing SWO VOR
Langston Int	SWO VOR	Direct	3000	Climb to 3000′ on SWO, R 175° within 20 miles.
Yale Int	SWO VOR	Direct	3000	
Ponca City VORTAC	SWO VOR	Direct	3000	Supplementary charting information: Runway 17, TDZ elevation, 977′. LRCO 122.1.

Procedure turn E side of crs, 355° Outbnd, 175° Inbnd, 3000′ within 10 miles of SWO VOR.
FAF, SWO VOR. Final approach crs, 175°. Distance FAF to MAP 3.5 miles.
Minimum altitude over SWO VOR, 2000′.
MSA: 000°–360°—2500′.
*Use Oklahoma City altimeter setting when local altimeter setting not available.
*Alternate minimums not authorized except for operators with approved weather reporting service.
*Circling and straight-in MDA increased 240′ when local altimeter setting not available.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S–17*	1380	1	403	1380	1	403	1380	1	403	NA
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	
C*	1420	1	436	1520	1	536	1520	1½	536	NA
A	Standard.*		T 2-eng or less—Standard.				T over 2-eng.—Standard.			

City, Stillwater; State, Okla.; Airport name, Searcy Field; Elev., 9; Fac. Ident. SWO; Procedure No. VOR Runway 1, Amdt. 2; Eff. date, 9 Apr. 70; Sup. Amdt. No. 1; Dated 16 May 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.9 miles after passing Wink VORTAC.
				Right turn climbing to 4800′ direct INK VORTAC and hold. Supplementary charting information: Hold NW of INK VORTAC on R 330° 150° Inbnd, right turns, 1 minute.

Procedure turn W side of crs, 330° Outbnd, 150° Inbnd, 4800′ within 10 miles of Wink VORTAC.
FAF, Wink VORTAC. Final approach crs, 150°. Distance FAF to MAP, 5.9 miles.
Minimum altitude over INK VORTAC, 4600′.
MSA: 000°–090°—5500′; 090°–270°—4400′; 270°–360°—5000′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S–13	3260	1	442	3260	1	442	3260	1	442	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	3320	1	502	3320	1	502	3320	1½	502	NA
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Wink; State, Tex.; Airport name, Winkler County; Elev., 2818′; Fac. Ident. INK; Procedure No. VOR Runway 13, Amdt. 7; Eff. date, 9 Apr. 70; Sup. Amdt. No. 6; Dated, 18 Dec. 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: 3-mile DME Fix, R 32°.
R 230°, DHN VORTAC CW	R 328°, DHN VORTAC	13-mile arc DHN, R 318° lead radial.	2000	Climb to 2000', proceed direct to DHN VORTAC and hold, or, Radar vector at 2000' as directed by ATC.
R 060°, DHN VORTAC CCW	R 328°, DHN VORTAC	13-mile arc DHN, R 338° lead radial.	2000	Supplementary charting information:
13-mile DME Fix	7-mile DME Fix	R 328°	2000	Hold SE, 1 minute, left turns, 330° Inbnd. Final approach crs intercepts runway centerline 3000' from 501' displaced threshold. Chart: Water tank 555' on airport. Runway 13, TDZ elevation, 400'.

Procedure turn not authorized. Approach crs (profile) starts at 13-mile DME Fix, R 328°.
Final approach crs, 148°.
Minimum altitude over 7-mile DME Fix, 2000'.
MSA: 000°–180°—2600'; 180°–270°—1800'; 270°360°—2500'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	740	1	340	740	1	340	740	1	340	740	1	340
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	860	1	460	860	1	460	860	1¼	460	960	2	560
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Dothan; State, Ala.; Airport name, Dothan; Elev., 400'; Fac. Ident., DHN; Procedure No. VOR/DME Runway 13, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. 2; Dated, 29 Jan. 70

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3-mile DME Fix, R 344°.
R 230°, DHN VORTAC CW	R 344°, DHN VORTAC (NOPT)	13-mile arc DHN, R 333° lead radial.	2000	Climb to 2000' proceed direct to DHN VORTAC and hold, or, Radar vector
R 060°, DHN VORTAC CCW	R 344°, DHN VORTAC (NOPT)	13-mile arc DHN, R 355° lead radial.	2000	at 2000' as directed by ATC.
13-mile DME Fix	7-mile DME Fix (NOPT)	Direct	2000	Supplementary charting information: Hold SE DHN VORTAC, 1 minute, left turns, 330° inbnd. Final approach crs intercepts runway centerline 3000' from threshold. Chart: Water tank 555' on airport. Runway 18, TDZ elevation, 395'.

Procedure turn E side of crs, 344° Outbnd, 164° Inbnd, 2000' within 10 miles of 7-mile DME Fix.
Approach crs profile starts at 13-mile DME Fix DHN R 344°. Stops at 3-mile DME Fix.
Final approach crs, 164°.
Minimum altitude over 7-mile DME Fix, 2000'; over 3-mile DME Fix, 740'.
MSA: 000°–180°—2600'; 180°–270°—1800'; 270°–360°—2500'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	740	1	345	740	1	345	740	1	345	740	1	345
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	860	1	460	860	1	460	860	1¼	460	960	2	560
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Dothan; State, Ala.; Airport name, Dothan; Elev., 400'; Fac. Ident., DHN; Procedure No. VOR/DME Runway 18, Amdt. 5; Eff. date, 9 Apr. 70; Sup. Amdt. No. 4; Dated, 29 Jan. 70

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

Atlanta, Ga.—Atlanta, VOR Runways 27L and 27R, Amdt. 5, 8 Aug. 1968, canceled, effective 9 Apr. 1970.

12. By amending § 97.25 of Subpart C to amend 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: 5.2 miles after passing Conley Int.
Lakeside LOM	Conley Int	Direct	2500	Climbing left turn to 3000′ direct to ATL VORTAC and hold.
Red Oak LOM	Conley Int	Direct	2500	
REG VORTAC	Conley Int (NOPT)	Direc	2000	Supplementary charting information: Hold S, 1 minute, right turns, 017° Inbnd. No glide slope. REIL Runway 3. Runway 27L, TDZ elevation, 981′.

Procedure turn S side of crs, 089° Outbnd, 269° Inbnd, 2500′ within 10 miles of Conley Int.
FAF, Conley Int. Final approach crs, 269°. Distance FAF to MAP, 5.2. miles.
Minimum altitude over Conley Int, 2000′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
LOC: S–27L	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 40	419	1400	RVR 50	419
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A	Standard.		T 2-eng. or less—RVR 24′, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others.				T over 2-eng.—RVR 24′, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; Standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident., I–ALR; Procedure No. LOC (BC) Runway 27L, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. 2 Dated, 8 Aug. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.2 miles after passing Concho Int.
R 014°, SJT VORTAC CW	SJT LOC (BC)	10-mile ARC SJT, R 017° lead radial.	3500	Climb to 4000′ direct SJ LOM, or, climb to 4000′, left turn, intercept and proceed to Christoval Int via SJT VORTAC R 171°. Supplementary charting information: Runway 21, TDZ elevation, 1905′.
R 102°, SJT VORTAC CCW	SJT LOC (BC)	10-mile ARC SJT, R 040° lead radial.	3500	
SJ LOM	Concho Int	Direct	3500	
SJT VORTAC	Concho Int	Direct	3500	
10-mile DME ARC	Concho Int (NOPT)	LOC crs	2700	

Procedure turn E side of crs, 033° Outbnd, 213° Inbnd, 3400′ within 10 miles of Concho Int.
FAF, Concho Int. Final approch crs, 213°.
Distance FAF to MAP, 2.2 miles.
Minimum altitude over Concho Int. 2680′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–21	2280	¾	375	2280	¾	375	2280	¾	375	2280	1	375
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	2320	1	405	2380	1	465	2380	1½	465	2480	2	565
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, San Angelo; State, Tex.; Airport name, Mathis Field; Elev., 1915′; Fac. Ident., I–SJT; Procedure No. LOC (BC) Runway 21, Amdt. 6; Eff. date, 9 Apr. 70; Sup. Amdt. No. 5; Dated, 1 May 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: 5.3 miles after passing BRU NDB.
Lakeside LOM	BRU NDB	Direct	2500	Climbing left turn to 3000' direct to ALT VORTAC and hold.
Red Oak LOM	BRU NDB	Direct	2500	Supplementary charting information:
Jonesboro LOM	BRU NDB	Direct	2500	Hold S, 1 minute, right turns, 017° Inbnd.
ATL VORTAC	BRU NDB	Direct	2500	REIL Runway 3. HIRLS Runways 9R,
McDonough Int	BRU NDB	Direct	2500	9L, 27R, 27L, 15, 33.
REG VORTAC	BRU NDB (NOPT)	Direct	2000	TDZ/CL lights Runways 9R, 9L.
				VASI Runways 27R, 27L.
				Runway 27L, TDZ elevation, 981'.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500' within 10 miles of BRU NDB.
FAF, BRU NDB. Final approach crs, 261°. Distance FAF to MAP, 5.3 miles.
Minimum altitude over BRU NDB, 2000'.
MSA: 090°–180°—2300'; 180°–270°—2400'; 270°–090°—3100'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27L	1460	RVR 50	479	1460	RVR 50	479	1460	RVR 50	479	1460	RVR 50	479
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1¼	476	1580	2	556

Takeoff RVR 24', Runways 33 and 27'; RVR 18', Runways 9L and 9R; Standard all others. Alternate—Standard.

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Fac. Ident. BRU; Procedure No. NDB (ADF) Runway 27L, Amdt. Orig.; Eff. date, 9 Apr. 70

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.7 miles after passing BRU NDB.
Lakeside LOM	BRU NDB	Direct	2500	Climb to 3000' on bearing 267° BRU NDB
Red Oak LOM	BRU NDB	Direct	2500	to Chattahoochee Int and hold.
Jonesboro LOM	BRU NDB	Direct	2500	Supplementary charting information:
ATL VORTAC	BRU NDB	Direct	2500	Hold W, 1 minute, left turns, 087° Inbnd.
McDonough Int	BRU NDB	Direct	2500	REIL Runway 3. HIRLS Runways 9R,
REG VORTAC	BRU NDB (NOPT)	Direct	2000	9L, 27R, 27L, 15, 33. VASI Runways
				27R, 27L.
				TDZ/CL lights Runways 9R, 9L.
				Runway 27R, TDZ elevation, 996'.

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 2500' within 10 miles of BRU NDB.
FAF, BRU NDB. Final approach crs 270°. Distance FAF to MAP, 4.7 miles.
Minimum altitude over BRU NDB, 2000'.
MSA: 090°–180°—2300;' 180°–270°—2400'; 270°–090°—3100'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-27R	1460	1	464	1460	1	464	1460	1	464	1460	1	464
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556

Takeoff RVR 24', Runways 33 and 27L; RVR 18', Runways 9L and 9R; Standard all others. Alternate—Standard.

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Fac. Ident. BRU; Procedure No. NDB (ADF) Runway 27R, Amdt. Orig.; Eff. date, 9 Apr. 70

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CWI NDB.
CVA VOR	CWI NDB	Direct	2500	Climb to 2300′ within 10 miles, left turn to CWI NDB.
Charlotte Int	CWI NDB	Direct	2500	
Thomson Int	CWI NDB	Direct	2500	Supplementary charting information:
Albany Int	CWI NDB	Direct	2500	Runway 3, TDZ elevation 700′.
				Final approach crs intercepts runway centerline extended 2650′ from threshold.
				Chart 767′ windmill 1500′ NW.

Procedure turn W side of crs, 220° Outbnd, 040° Inbnd, 2300′ within 10 miles of CWI NDB.
Final approach crs, 040°.
MSA: 000°–090°—2200′; 090°–180°—2200′; 180°–270°—2700′; 270°–360°—2400′.
Radar vectoring.
Use Moline, Ill., altimeter setting, except operators with approved weather reporting service.
*Operators with approved weather reporting service may reduce all MDAs by 100′.
#Standard alternate minimums authorized for operators with approved weather reporting service.
%IFR departure procedures: Runway 32—Maintain runway heading to 900′ MSL before turning on crs. Air carriers will not reduce takeoff visibility due to local conditions.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–3*	1260	1	560	1260	1	560	1260	1	560	1260	1¼	560
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	1300	1	593	1300	1	593	1300	1¼	593	1360	2	653

Takeoff Standard.% Alternate—Not authorized.#

City, Clinton; State, Iowa; Airport name, Clinton Municipal; Elev., 707′; Fac. Ident., CWI; Procedure No. NDB (ADF) Runway 3, Amdt. Orig.; Eff. date, 9 Apr. 70

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CWI NDB.
CVA VOR	CWI NDB	Direct	2500	Climb to 2300′ within 10 miles, left turn to CWI NDB.
Charlotte Int	CWI NDB	Direct	2500	
Thomson Int	CWI NDB	Direct	2500	Supplementary charting information:
Albany Int	CWI NDB	Direct	2500	Runway 14, TDZ elevation 701′.
Charlotte Int	Elvira Int (NOPT)	Via R–265 PLL VORTAC and CWI bearing 325°.	1900	Final approach crs intercepts runway centerline extended 3000′ from threshold
				Chart 767′ windmill 1500′ NW.

Procedure turn W side of crs, 325° Outbnd, 145° Inbnd, 2300′ within 10 miles of CWI NDB.
Final approach crs 145°.
Minimum altitude over Elvira Int *1400′ (*1900′ from Charlotte Int).
MSA: 000°–090°—2200′; 090°–180°—2200′; 180°–270°—2700′; 270°–360°—2400′.
Radar vectoring.
Use Moline, Ill., altimeter setting, except operators with approved weather reporting service.
**Operators with approved weather reporting service may reduce all MDAs by 100′.
#Standard alternate minimums authorized for operators with approved weather reporting service.
%IFR departure procedures: Runway 32—Maintain runway heading to 900′ MSL before turning on crs. Air carriers will not reduce takeoff visibility due to local conditions

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–14**	1400	1	699	1400	1	699	1400	1¼	699	1400	1½	699
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C**	1400	1	693	1400	1	693	1400	1½	693	1400	2	693
	NDB/VOR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–14**	1300	1	599	1300	1	599	1300	1	599	1300	1¼	599
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C**	1300	1	593	1300	1	593	1300	1½	593	1360	2	653

Takeoff Standard.% Alternate—Not authorized.#

City, Clinton; State, Iowa; Airport name, Clinton Municipal; Elev., 707′; Fac. Ident. CWI; Procedure No. NDB (ADF) Runway 14, Amdt. Orig.; Eff. date, 9 Apr. 70

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: OLY NDB
SAM VOR	OLY NDB	Direct	2100	Make climbing right turn to 2100′ and return to NDB.
BIB VOR	OLY NDB	Direct	2100	
New Hebron Int	OLY NDB	Direct	2100	

Procedure turn S side of crs, 220° Outbnd, 040° Inbnd, 2100′ within 10 miles of OLY NDB.
Final approach crs, 040°.
MSA: 090°–270°—2100′; 270°–090°—2500′.
NOTE: Use Vandalia, Ill., altimeter setting.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-3	1200	1	730	1200	1	730	1200	1¼	730	1200	1¼	730
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1200	1	730	1200	1	730	1200	1½	730	1200	2	730

Takeoff Standard. Alternate—Not authorized.

City, Olney; State, Ill.; Airport name, Olney Noble; Elev., 470′; Fac. Ident. OLY; Procedure No. NDB (ADF) Runway 3, Amdt. 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig.; Dated, 30 Mar. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.1 miles after passing PHX NDB.
				Climb to 3000′ heading 260°, turn right to 4000′ direct PHX NDB.

Procedure turn N side of crs, 080° Outbnd, 260° Inbnd, 4000′ within 10 miles of PHX NDB.
FAF, PHX NDB. Final approach crs, 267°. Distance FAF to MAP, 1.1 miles.
Minimum altitude over PHX NDB, 2100′.
MSA: 020°–110°—6100′; 110°–200°—5400′; 200°–290°—5600′; 290°–020°—5900′.
#Air carrier will not reduce takeoff visibility due to local conditions Runways 8L/26R.
%IFR departure procedures: Takeoff Runway 26L/R, climb westbound on V–16 to 3000′, westbound continue climb on crs; eastbound, northbound, and southbound continue climb direct PHX VOR. Takeoff Runway 8L/R climb heading 070° to 3000′ and continue climb direct PHX VOR.
NOTES: (1) ASR. Aircraft may be vectored to the 080° bearing for elimination of procedure turn. (2) Descent from holding pattern at NDB not authorized; procedure turn required.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1660	1	532	1660	1	532	1660	1¼	532	1880	2	752

Takeoff Runways 8L, 600–1; Runways 26R, 500–1; Runways 8R/26L, Standard.#% Alternate—Standard.

City, Phoenix; State, Ariz.; Airport name, Phoenix Sky Harbor Municipal; Elev., 1128′; Fac. Ident. PHX; Procedure No. NDB (ADF) Runway 26R, Amdt. 2; Eff. date, 9 Apr. 70; Sup. Amdt. No. ADF 1, Amdt. 1; Dated, 20 Mar. 65

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: 5.7 miles after passing ADM NDB.
ADM VORTAC	ADM NDB	Direct	2500	Climb to 2700′ on crs 076° within 20 miles.
DUC VOR	ADM NDB	Direct	2600	Supplementary charting information: Tower 1.7 miles N, 1075′.

Procedure turn N side of crs, 256° Outbnd, 076° Inbnd, 2700′ within 10 miles of ADM NDB.
FAF, ADM NDB. Final approach crs, 076°. Distance FAF to MAP, 5.7 miles.
Minimum altitude over ADM NDB, 2300′.
MSA: 000°–090°—2800′; 090°–180°—2900′; 180°–270°—2500′; 270°–360°—2700′.
#Night operations not authorized Runways 4/22.
*When control zone not effective, the following limitations apply except for operators with approved weather reporting service: (1) Use Perrin AFB altimeter setting; (2) circling and straight-in MDA's increased 180′; (3) alternate minimums not authorized.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–8*	1300	1	538	1300	1	538	1300	1	538	1300	1¼	538
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*#	1300	1	538	1300	1	538	1380	1½	618	1400	2	638
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Ardmore; State, Okla.; Airport name, Ardmore Municipal; Elev., 762′; Fac. Ident., ADM; Procedure No. NDB (ADF) Runway 8, Amdt. 7; Eff. date, 9 Apr. 70; Sup. Amdt. No. 6; Dated, 4 Dec. 69

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.2 miles after passing Lakeside LOM.
Bruce NDB	Lakeside LOM	Direct	2700	Climb to 3000′, left turn direct Tucker Int via ATL VOR, R 033° and hold.
Atlanta VORTAC	Lakeside LOM	Direct	2700	Supplementary charting information:
Harrison Int	Lakeside LOM	Direct	3000	Hold N , 1 minute, left turns, 213° Inbnd.
Chattahoochee Int	Lakeside LOM (NOPT)	Direct	2700	REILS Runway 3, HIRLS Runways 9R, 9L, 27R, 27L, 15, 33.
				TDZ/CL lights runways 9R, 9L.
				Runway 9L, TDZ elevation, 1024′.

Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 2700′ within 10 miles of Lakeside LOM (AT).
FAF, Lakeside LOM. Final approach crs, 089°. Distance FAF to MAP, 5.2 miles.
Minimum altitude over Lakeside LOM, 2700′.
MSA: 000°–090°—3100′; 090°–180°—2300′; 180°–270°—2700′; 270°–360°—2900′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–9L	1520	RVR 40	496	1520	RVR 40	496	1520	RVR 40	496	1520	RVR 50	496
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	496	1520	1	496	1520	1½	496	1580	2	556
A	Standard.		T 2-eng. or less—RVR 24 runways 33 and 27L; RVR 18 runways 9L and 9R; standard all others.				T over 2-eng. RVR 24 runways 33 and 27L; RVR 18 runways 9L and 9R; standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident. AT; Procedure No. NDB (ADF) Runway 9L, Amdt. 29; Eff. date, 9 Apr. 70; Sup. Amdt. No. 28; Dated, 22 Aug. 68

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Red Oak LOM
Bruce NDB	Red Oak LOM	Direct	2500	Climbing right turn to 3000' direct to ATL VORTAC and hold.
Atlanta VORTAC	Red Oak LOM	Direct	2500	
Harrison Int	Red Oak LOM	Direct	3000	Supplementary charting information:
Chattahoochee Int	Red Oak LOM (NOPT)	Direct	2500	Hold S, 1 minute, right turns, 017° Inbnd, REIL Runway 3. HIRLS Runways 9R, 9L, 27R, 27L, 15, 33. TDZ/CL lights Runways 9R, 9L. Runway 9R, TDZ elevation, 1015'.

Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 2500' within 10 miles of Red Oak LOM (AL).
FAF, Red Oak LOM. Final approach crs, 089°. Distance FAF to MAP, 5 miles.
Minimum altitude over Red Oak LOM, 2500'.
MSA: 000°-090°—3100'; 090°-180°—2300'; 180°-270°—2700'; 270°-360°—2900'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9R	1520	RVR 40	505	1520	RVR 40	505	1520	RVR 40	505	1520	RVR 60	505
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	496	1520	1	496	1520	1¼	496	1580	2	556
A	Standard.			T 2-eng. or less—RVR 24', Runways 33 and 27L; RVR 18', Runways 9L and 9R; Standard all others.			T over 2-eng.—RVR 24', Runways 33 and 27L, RVR 18', Runways 9L and 9R; Standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024'; Fac. Ident. AL; Procedure No. NBD (ADF) Runway 9R, Amdt. 6; Eff. date, 9 Apr. 70; Sup. Amdt. No. 5; Dated, 8 Aug. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.3 miles after passing Jonesboro LOM.
Atlanta VORTAC	Jonesboro LOM	Direct	2200	Climbing right turn to 3000' direct to REG VORTAC and hold.
Tucker Int	Jonesboro LOM	Direct	3000	
Harrison Int	Jonesboro LOM	Direct	3000	Supplementary charting information:
McDonough Int	Jonesboro LOM (NOPT)	Direct	2200	Hold E, 1 minute, right turns, 269° Inbnd. REIL Runway 3. HIRLS Runways 9R, 9L, 27R, 27L, 15, 33. Runway 33, TDX elevation, 986'.

Procedure turn E side of crs, 140° Outbnd, 329° Inbnd, 2200' within 10 miles of Jonesboro LOM (AZ).
FAF, Jonesboro LOM. Final approach crs, 329°. Distance FAF to MAP, 4.3 miles.
Minimum altitude over AZ LOM, 2200'.
MSA: 000°-090°—3100'; 090°-180°—2300'; 180°-270°—2700'; 270°-360°—3100'.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33	1380	RVR 40	394	1380	RVR 40	394	1380	RVR 40	394	1380	RVR 50	394
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1¼	476	1580	2	556
A	Standard.			T 2-eng. or less—RVR 24' Runways 33 and 27L: RVR 18', Runways 9L and 9R; Standard all others.			T over 2-eng.—RVR 24', Runways 33 and 27L; RVR 18', Runways 9L and 9R; Standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 0124'; Fac. Ident. AZ; Procedure No. NDB (ADF) Runway 33, Amdt. 9; Eff. date, 9 Apr. 70; Sup. Amdt. No. 8; Dated, 8 Aug. 68

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CDN NDB
ELD VOR	CDH NDB	Direct	2000	Climb to 2000', left turn direct to CDH NDB and hold.
Bearden Int	CDH NDB	Direct	2000	Supplementary charting information: Hold N 005°-185° Inbnd, 1 minute, left turns.
Waterloo Int	CDH NDB	Direct	2000	

Procedure turn E side of crs, 005° Outbnd, 185° Inbnd, 2000' within 10 miles of CDH NDB.
Minimum altitude over CDH NDB, 640'.
MSA: 000°-360°—1700'.
NOTE: Use El Dorado altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-18	660	1	532	660	1	532	660	1	532	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	660	1	532	660	1	532	660	1½	532	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.			

City, Camden; State, Ark.; Airport name, Harrell Field; Elev., 128'; Fac. Ident. CDH; Procedure No. NDB (ADF) Runway 18, Amdt. 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig.; Dated, 17 Oct. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.7 miles after passing SL LOM
SLN VORTAC	SL LOM	Direct	3000	1. Climb to 3000' on 351° bearing from SL LOM within 15 miles.
Lindsborg 19-mile DME Fix R 175° SLN VORTAC.	SL LOM (NOPT)	Direct	3000	2. Proceed to SLN VORTAC climbing to 3000' on SLN R 003° within 10 miles.
				3. Left turn climbing to 4000' on 360° heading, intercept R 262° SLN VORTAC to Glendale Int.
				Supplementary charting information: Runway 35, TDZ elevation 1270'.

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 3000' within 10 miles of SL LOM.
FAF, SL LOM. Final approach crs, 351°. Distance FAF to MAP, 5.7 miles.
Minimum altitude over SL LOM, 3000'.
MSA: 000°-090°—2900'; 090°-270°—3000'; 270°-360°—3100'.
NOTE: Restricted area 7 miles SW of airport. Straight-in Category D Day-Night minimums applicable for Category E. Circling Category E Day-Night: MDA 1920, VIS 2, HAA 648.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	1620	¾	350	1620	¾	350	1620	¾	350	1620	1	350
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	428	1740	1	468	1740	1½	468	1840	2	568
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1272'; Fac. Ident. SL; Procedure No. NDB (ADF) Runway 35, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. 2; Dated, 31 Oct. 68

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.7 miles after passing SJ LOM.
R 313°, SJT VORTAC CCW	SJ LOM bearing 213°	12 mile arc SJT, R 224°, lead radial.	4000	Climb to 3500', right turn to SJT VORTAC R 083°, within 20 miles or climb to 3500' on SJ LOM bearing 033° within 15 miles.
SJT VORTAC	SJ LOM	Direct	4000	
Tanker Int	SJ LOM	Direct	4000	Supplementary charting information:
Christoval Int	Nicker Int	Direct	4000	Runway 3, TDZ elevation, 1915'.
Nicker Int	SJ LOM (NOPT)	Direct	3600	
Edwards Int	SJ LOM	Direct	4000	

Procedure turn S side of crs, 213° Outbnd, 033° Inbnd, 3600' within 10 miles of SJ LOM.
FAF, SJ LOM. Final approach crs, 033°. Distance FAF to MAP, 5.7 miles.
Minimum altitude over SJ LOM, 3600'.
MSA: 000°–360°—3900'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-3	2340	¾	425	2340	¾	425	2340	¾	425	2340	1	425
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	2340	1	425	2380	1	465	2380	1½	465	2480	2	565
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, San Angelo; State, Tex.; Airport name, Mathis Field; Elev., 1915'; Fac. Ident. SJ; Procedure No. NDB (ADF) Runway 3, Amdt. 6; Eff. date, 9 Apr. 70; Sup. Amdt. No. 5; Dated, 21 Nov. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing SG LOM.
SGF VORTAC	SG LOM	Direct	2800	Climb to 2800' direct to SGF VORTAC.
SGF NDB	SG LOM	Direct	2800	Supplementary charting information:
Vernon Int	SG LOM	Direct	2800	Runway 1, TDZ elevation, 1263'.
Billings Int	SG LOM	Direct	2800	
Crane Int	SG LOM	Direct	2800	
Miller Int	SG LOM	Direct	2800	
Plano Int	SG LOM	Direct	2800	
Ford Int	SG LOM	Direct	3000	

Procedure turn E side of crs, 195° Outbnd, 015° Inbnd, 2600' within 10 miles of SG LOM.
FAF, SG LOM. Final approach crs, 015°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over SG LOM, 2300'.
MSA: 000°–180°—4600'; 180° 360°—2700'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-1	1680	¾	417	1680	¾	417	1680	¾	417	1680	1	417
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	433	1720	1	453	1720	1½	453	1820	2	553
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Springfield; State, Mo.; Airport name, Municipal; Elev., 1267'; Fac. Ident. SG; Procedure No. NDB (ADF) Runway 1, Amdt. 9; Eff. date, 9 Apr. 70; Sup. Amdt. No. 8; Dated, 29 Aug. 68

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

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing SGF NDB.
SGF VORTAC	SGF NDB	Direct	2800	Climb to 2800', right turn to SGF NDB. Supplementary charting information: Runway 13, TDZ elevation, 1257'.

Procedure turn W side of crs, 317° Outbnd, 137° Inbnd, 2800' within 10 miles of SGF NDB.
FAF, SGF, NDB. Final approach crs, 137°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over SGF NDB, 2300'.
MSA: 000°–090°—3100'; 090°–180°—4600'; 180°–360°—2600'.

DAY AND NIGHT MINIMUM

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	1620	1	363	1620	1	363	1620	1	363	1620	1	363
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	433	1720	1	453	1720	1½	453	1820	2	553
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Springfield; State, Mo.; Airport name, Municipal; Elev., 1267'; Fac. Ident., SGF; Procedure No. NDB (ADF) Runway 13, Amdt. 5; Eff. date, 9 Apr. 70; Sup. Amdt. No. 4; Dated, 29 Aug. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ETB NDB.
Belgium Int	ETB NDB	Direct	2600	Climb to 2800' on 315° from ETB NDB within 10 miles, return to NDB. Supplementary charting information: Final approach crs intercepts runway centerline 1800' from threshold. 1381' tower at 43°24'40"/88°10'16". Runway 31, TDZ elevation, 878'.
MKE VOR	ETB NDB	Direct	2700	
Eden Int	ETB NDB	Direct	2700	
Calvary Int	ETB NDB	Direct	2700	
MWC VOR	ETB NDB	Direct	2600	

Procedure turn E side of crs, 135° Outbnd, 315° Inbnd, 2600' within 10 miles of ETB NDB.
Final approach crs, 315°.
MSA: 000°–090°—2400'; 090°–180°—2800'; 180°–270°—2700'; 270°–360°—2500'.
NOTES: (1) Radar vectoring. (2) Use Milwaukee altimeter setting.
%IFR departure procedures: Takeoffs Runway 31 climb to 1400' on runway heading before turning left. Restriction due to 1381' tower, 1.9 miles SW.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-31	1540	1	662	1540	1	662	1540	1¼	662	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C	1540	1	652	1540	1	652	1540	1½	652	NA
A	Not authorized.		T 2-eng. or less—500-2, Runway 24; standard all others.%				T over 2-eng.—500-2, Runway 24; standard all others.%			

City, West Bend; State, Wis.; Airport name, West Bend Municipal; Elev., 888'; Fac. Ident., ETB Procedure No. NDB (ADF) Runway 31, Amdt. 1; Eff. date, 9 Apr. 70; Sup. Amdt. No. Orig.; Dated, 26 June 69

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

Atlanta, Ga.—Atlanta, NDB (ADF) Runways 27L and 27R, Amdt. 4, 8 Aug. 1968, canceled, effective 9 Apr. 1970.
Waukesha, Wis.—Waukesha County, NDB (ADF) Runway 10, Orig., 8 Jan. 1970, canceled, effective 9 Apr. 1970.

16. 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, 408'; LOC 5.7 miles after passing RWI OM.
RDU VORTAC	Bailey Int (NOPT)	Direct	2000	Climbing right turn to 2000' proceed to RMT VORTAC via R 237 and hold.
RMT VORTAC	Bailey Int	Direct	2000	Supplementary charting information:
ISO VORTAC	Bailey Int (NOPT)	Direct	2000	Hold NE, 1 minute, right turns, 237° inbnd.
				HIRL Runways 4/22.
				MALS/R Runway 4.
				Runway 4, TDZ elevation, 158'.

Procedure turn not authorized.
1-minute holding pattern SW of Bailey Int., 047° Inbnd, left turns, 2000'.
FAF, RWI OM. Final approach crs, 039°. Distance FAF to MAP, 5.7 miles.
Minimum glide slope interception altitude, 1900'. Glide slope altitude at OM, 1896'; MM, 371'.
Distance to runway threshold at OM, 5.7 miles; MM, 0.6 mile.
MSA: Not authorized.
NOTE: Radar vectoring.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-ILS 4	408	¾	250	408	¾	250	408	¾	250	408	¾	250
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-LOC 4	460	1	302	460	1	302	460	1	302	460	1	302
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
Circling	520	1	362	620	1	462	620	1¼	462	720	2	562

Takeoff Standard. Alternate—Standard.

City, Rocky Mount; State, N.C.; Airport name, Rocky Mount-Wilson; Elev., 158'; Fac. Ident., I-RWI; Procedure No. ILS Runway 4, Amdt. Orig.; Eff. date, 9 Apr. 70

17. 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, 1224′; LOC 5.2 miles after passing Lakeside/AT LOM.
Bruce NDB	Lakeside LOM	Direct	2700	Climb to 3000′, left turn direct to Tucker Int via ATL VORTAC R 033°, and hold.
ATL VORTAC	Lakeside LOM	Direct	2700	Supplementary charting information:
Harrison Int	Lakeside LOM	Direct	3000	Hold NE, left turns, 1 minute, 213° inbnd.
Chattahoochee Int	Lakeside LOM (NOPT)	Direct	2700	REIL Runway 3.
Wrigley Int	Lakeside LOM (NOPT)	Direct	2700	Chart as backup procedure to ILS Runway 9R.
				Runway 9L, TDZ elevation, 1024′.
				TDZ/CL lights Runways 9R, 9L.
				HIRLS Runways 9R, 9L, 27R, 27L, 15, and 33.

Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 2700′ within 10 miles of Lakeside/AT LOM.
FAF, Lakeside/AT LOM. Final approach crs, 089°. Distance FAF to MAP, 5.2 miles.
Minimum glide slope interception altitude, 2700′. Glide slope altitude at OM, 2660′; at MM, 1236′.
Distance to runway threshold at OM, 5.2 miles; at MM, 0.5 mile.
MSA: 000°–090°—3100′; 090°–180°—2300′; 180°–270°—2700′; 270°–360°—2900′.
NOTES: (1) ASR. (2) Back crs Runway 9L localizer unusable. (3) When dual approaches to Runways 9L and 9R in progress, procedure turn not authorized and radar required. Approach crs (profile) starts at Wrigley Int at 3500′. Minimum glide slope intercept altitude or as directed by Radar Controller.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-9L	1224	RVR 18	200	1224	RVR 18	200	1224	RVR 18	200	1224	RVR 20	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	1400	RVR 40	376	1400	RVR 40	376	1400	RVR 40	376	1400	RVR 50	376
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A	Standard.		T 2-eng. or less—RVR 24′ Runways 33 and 27L; RVR 18′ Runways 9L and 9R; standard all others.				T over 2-eng.—RVR 24′ Runways 33 and 27L; RVR 18′ Runways 9L and 9R; standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident., I-ATL; Procedure No. ILS Runway 9L, Amdt. 34; Eff. date, 9 Apr. 70; Sup. Amdt. No. 33; Dated, 10 Apr. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: CAT I, ILS DH, 1215. LOC 5 miles after passing Red Oak/AL LOM. CAT II ILS at DH.
Bruce NDB	Red Oak (AL) LOM	Direct	2500	Climb straight ahead to 1500′ then make climbing right turn to 3000′ direct to ATL VORTAC and hold.
ATL VORTAC	Red Oak (AL) LOM	Direct	2500	
Harrison Int	Red Oak (AL) LOM	Direct	3000	
Chattahoochee Int	Red Oak (AL) LOM(NOPT)	Direct	2500	Supplementary charting information: Hold S, 1 minute, right turns, 017° Inbnd. AL LOM named Red Oak. REIL Runway 3. Chart as backup procedure to ILS Runway 9L. Runway 9R, TDZ elevation, 1015′.

Procedure turn S side of crs, 269° Outbnd, 089° Inbnd, 2500′ within 10 miles of Red Oak/AL LOM.
FAF, Red Oak/AL LOM. Final approach crs, 089°. Distance FAF to MAP, 5 miles.
Minimum glide slope interception altitude, 2500′. Glide slope altitude at OM, 2439′; at MM, 1227′; at IM, 1110′.
Distance to runway threshold at OM, 5 miles; at MM, 0.6 mile; at IM, 1110′.
MSA: 000°-090°—3100′; 090°-180°—2300′; 180°-270°—2700′; 270°-360°—2900′.
NOTES: (1) ASR. (2) When dual approaches to Runways 9L & 9R in progress, procedure turn not authorized and radar required. Approach crs (profile) starts at Red Oak/AL LOM at 2500′ minimum glide slope intercept altitude or as directed by Radar Controller.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-9R	1215	RVR 18	200	1215	RVR 18	200	1215	RVR 18	200	1215	RVR 20	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9R	1480	RVR 24	465	1480	RVR 24	465	1480	RVR 24	465	1480	RVR 40	465
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
	Category II ILS Minimums—Special Authorization Required:											
	DH/RA	VIS	HAT	DH/RA	VIS	HAT	DH/RA	VIS	HAT	DH/RA	VIS	HAT
S-9R	1165/155	RVR 16	150	1165/155	RVR 16	150	1165/155	RVR 16	150	1165/155	RVR 16	150
S-9Rn	1115/105	RVR 12	100	1115/105	RVR 12	100	1115/105	RVR 12	100	1115/105	RVR 12	100

Takeoff RVR 24″, Runways 33 and 27L; RVR 18′, Runways 9L and 9R; standard all others. Alternate—Standard.

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident. I-ALR; Procedure No. ILS Runway 9R, Amdt. 10; Eff. date, 9 Apr. 70; Sup. Amdt. No. 9; Dated, 8 Aug. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1118′, LOC 4.3 miles after passing Jonesboro LOM.
ATL VORTAC	Jonesboro LOM	Direct	2200	Climbing right turn to 3000′ direct HEC VORTAC and hold.
Tucker Int	Jonesboro LOM	Direct	3000	
Harrison Int	Jonesboro LOM	Direct	3000	Supplementary charting information: Hold E, 1 minute, right turns, 269° Inbnd. REIL Runway 3. Localizer back crs unusable. Runway 33, TDZ elevation, 986′.
McDonough Int	Jonesboro LOM (NOPT)	Direct	2200	

Procedure turn E side of crs, 149° Outbnd, 329° Inbnd, 2200′ within 10 miles of Jonesboro LOM (AZ).
FAF, Jonesboro LOM. Final approach crs, 329°. Distance FAF to MAP, 4.3 miles.
Minimum glide slope interception altitude, 2200′. Glide slope altitude at OM, 2140′; at MM, 1185.′
Distance to runway threshold at OM, 4.3 miles; at MM, 0.6 mile.
MSA: 000°-090°—3100′; 090°-180°—2300′; 180°-270°—2700′; 270°-360°—3100′.
NOTE: ASR.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-33	1186	RVR 24	200	1186	RVR 24	200	1186	RVR 24	200	1186	RVR 24	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-33	1280	RVR 24	294	1280	RVR 24	294	1280	RVR 24	294	1280	RVR 40	294
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	476	1500	1	476	1500	1½	476	1580	2	556
A	Standard.			T 2-eng. or less—RVR, 24′ Runways 33 and 27L; RVR, 18′ Runways 9L and 9R; standard all others.			T over 2-eng.—RVR, 24′ Runways 33 and 27L; RVR, 18′ Runways 9L and 9R; standard all others.					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident. I-AZA; Procedure No. ILS Runway 33, Amdt. 13; Eff. date, 9 Apr. 70; Sup. Amdt. No. 12; Dated, 8 Aug. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 3407'; LOC 4.6 miles after passing OM.
R 027°, RAP VORTAC CW	RAP LOC	7-mile Arc RAP, R 121° lead radial.	4700	Climb to 5400' on NW crs ILS within 10 miles, return to OM.
R 275°, RAP VORTAC CCW	R 238°, RAP VORTAC	7-mile Arc	6000	Supplementary charting information:
R 238°, RAP VORTAC CCW	RAP LOC	7-mile Arc RAP, R 153° lead radial.	5500	Chart MALS Runway 32.
7-mile DME Arc	OM (NOPT)	Localizer crs	4700	Runway 32 TDZ elevation, 3157'.
RAP VORTAC	OM	Direct	4700	

Procedure turn E side of crs, 139° Outbnd, 319° Inbnd, 4700' within 10 miles of OM.
FAF, OM. Final approach crs, 319°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over OM, 4700'.
Minimum glide slope interception altitude, 4700'. Glide slope altitude at OM, 4643'; at MM, 3354'.
Distance to runway threshold at OM, 4.6 miles; at MM, 0.6 mile.
NOTES: (1) Radar vectoring. (2) Inoperative table does not apply to HIRL or REIL Runway 32.
%IFR departures: For aircraft departing SW on V-26 takeoffs Runways 14, 32 and 1, climb to 4200' on takeoff heading before proceeding on crs. Runway 19 takeoffs turn right, climb to 4200' on 320° heading before proceeding on crs. Restriction required by 7242' terrain 22 miles SW.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-32	3407	¾	250	3407	¾	250	3407	¾	250	3407	¾	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-32	3440	¾	283	3440	¾	283	3440	¾	283	3440	1	283
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	3560	1	378	3660	1	478	3660	1½	478	3800	2	618
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Rapid City; State, S. Dak.; Airport name, Rapid City Municipal; Elev., 3182'; Fac. Ident., I-RAP; Procedure No. ILS Runway 32, Amdt. 3; Eff. date, 9 Apr. 70; Sup. Amdt. No. 2; Dated, 5 Feb. 70

Terminal routes				Missed approached
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 1470'. LOC 5.7 miles after passing SL LOM.
SLN VORTAC	SL LOM	Direct	3000	1. Proceed to SLN VORTAC climbing to 3000' on SLN R 003° within 10 miles.
Lindsborg 19-mile DME Fix, R 175° SLN VORTAC.	SL LOM (NOPT)	SLN LOC	3000	2. Left turn-climbing to 4000' on 300° heading, intercept R 262° SLN VORTAC, proceed to Glendale Int.
				Supplementary charting information: Runway 35, TDZ elevation, 1270'.

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 3000' within 10 miles of SL LOM.
FAF, SL LOM. Final approach crs, 351°. Distance FAF to MAP, 5.7 miles.
Minimum glide slope interception altitude, 3000'. Glide slope altitude at OM, 2970'; at MM, 1527'.
Distance to runway threshold at OM, 5.7 miles; at MM, 0.7 mile.
MSA within 25 miles of SL LOM: 000-090°—2900'; 090-270°—3000'; 270-360°—3100'.
NOTE: Restricted area 7 miles SW of airport. Straight-in Category D Day-Night minimums applicable for Category E; Circling Category E Day-Night MDA 1920, VIS 2, HAA 648.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-35	1470	½	200	1470	½	200	1470	½	200	1520	¾	250
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-35	1580	½	310	1580	½	310	1580	½	310	1580	¾	310
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	428	1740	1	468	1740	1¼	468	1840	2	568
A	Standard.		T 2-eng or le s—Standard.				T ov r 2-eng.—Standard.					

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1272'; Fac. Ident., T-SLN; Procedure No. ILS Runway 35, Amdt. 4; Eff. date, 9 Apr. 70; Sup. Amdt. No. 3; Dated, 31 Oct. 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH, 2115'. LOC, 5.7 miles after passing SJ LOM.
R 313° SJT VORTAC CCW	SJT ILS (FC)	12 mile ARC SJT, R 224° lead radial.	4000	Climb to 500', right turn to R 083°, SJT VORTAC within 20 miles, or, climb to 3600' on R 013°, SJT VORTAC within 20 miles.
SJT VORTAC	SJ LOM	Direct	4000	
Tanker Int	SJ LOM	Direct	4000	
Christoval Int	Nicker Int	Direct	4000	Supplementary charting information:
Nicker Int	SJ LOM (NOPT)	Direct	3600	Runway 3, TDZ elevation, 1915'.
Edwards Int	SJ LOM	Direct	4000	

Procedure turn S side of crs, 213° Outbnd, 033° Inbnd, 3600' within 10 miles of SJ LOM.
FAF, SJ LOM. Final approach crs, 033°. Distance FAF to MAP, 5.7 miles.
Minimum glide slope interception altitude, 3600'. Glide slope altitude at OM, 3512'; at MM 2110'.
MSA: 000°–360°—3900'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-3	2115	½	200	2115	½	200	2115	½	200	2115	½	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-3	2280	½	365	2280	½	365	2280	½	365	2280	¾	365
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	2320	1	405	2380	1	465	2380	1½	465	2480	2	565
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, San Angelo: State, Tex.; Airport name, Mathis Field; Elev., 1915'; Fac. Ident. I-SJT; Procedure No. ILS Runway 3, Amdt. 9; Eff. date, 9 Apr. 70; Sup. Amdt. No. 8; Dated, 21 Nov. 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 1463'. LOC 3.6 miles after passing SG LOM.
R 051°, SGF VORTAC CW	R 125°, SGF VORTAC	18-mile Arc	4600	Climb to 2800' on LOC back crs. Proceed to SGF VORTAC.
R 125°, SGF VORTAC CW	SGF LOC	18-mile Arc SGF, R 189° lead radial.	2800	Supplementary charting information:
R 269°, SGF VORTAC CCW	SGF LOC	18-mile Arc SGF, R 201° lead radial.	2800	Runway 1, TDZ elevation, 1263'.
SGF VORTAC	SG LOM	Direct	2800	
SGF NDB	SG LOM	Direct	2800	
Vernon Int	SG LOM	Direct	2800	
Billings Int	SG LOM	Direct	2800	
Crane Int	SG LOM	Direct	2800	
Miller Int	SG LOM	Direct	2800	
Plano Int	SG LOM	Direct	2800	
Ford Int	SG LOM	Direct	3000	
18-mile DME Arc	SG LOM (NOPT)	LOC crs	2500	

Procedure turn E side of crs, 195° Outbnd, 015° Inbnd, 2600' within 10 miles of SG LOM.
FAF, SG LOM. Final approach crs, 015°. Distance FAF to MAP, 3.6 miles.
Minimum glide slope interception altitude, 2500'. Glide slope altitude at OM, 2444'; at MM, 1465'.
Distance to runway threshold at OM, 3.6 miles; at MM, 0.5 mile.
MSA: 000°–180°—4600'; 180°–360°—2700'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-1	1463	½	200	1463	½	200	1463	½	200	1463	½	200
LOC:	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-1	1640	½	377	1640	½	377	1640	½	377	1640	¾	377
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1700	1	433	1720	1	453	1720	1½	453	1820	2	553
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Springfield; State, Mo.; Airport name, Municipal; Elev., 1267'; Fac. Ident. I-SGF; Procedure No. ILS Runway 1, Amdt. 9; Eff. date, 9 Apr. 70; Sup. Amdt. No. 8; Dated, 29 Aug. 68

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

Atlanta, Ga.—Atlanta, Dual ILS Runway 9 L and R, Amdt. 10, 10 Apr. 1969, canceled, effective 9 Apr. 1970.

19. 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—RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL, except HAT, HAA, and RA. Altitudes are minimum altitudes unless otherwise indicated. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or in feet RVR. 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 controllers; (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)										Missed approach
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	MAP:
As determined by PHX ASR vectoring charts.										Descend aircraft after passing FAF. FAF—Runways 8L/R, 26L, 6 miles from runway threshold. Runways 8L/R minimum altitude over FAF, 2600'; over 2-mile Radar Fix, 1800'. Runway 26L minimum altitude over FAF, 2700'; over 2-mile Radar Fix, 1900'.

Missed approach:
Runways 8L/R—Climb to 5000' direct PHX VORTAC and hold.*
Runway 26L—Climb straight ahead to 3000', climbing right turn to 5000' direct PHX VORTAC.
*Hold E, 1 minute, right turns, 255° Inbnd.
% IFR departure procedures: Takeoff Runways 26L/R, climb westbound on V-16 to 3000', westbound continue climb on course; eastbound, northbound, and southbound continue climb direct PHX VOR.
% Takeoff Runways 8L/R, climb Hdg 070° to 3000' continue climb direct PHX VOR.
Runways 8L/R, final approach crs, 076°.
Runway 26L, final approach crs, 256°.
Runway 8L, TDZ elevation, 1115'.
Runway 8R, TDZ elevation, 1112'.
Runway 26L, TDZ elevation, 1122'.
Air carrier will not reduce takeoff visibility due to local conditions Runways 8L/26R.
Lost communications: Proceed direct to PHX VOR at 5000' or last assigned altitude whichever is higher. Execute VOR Runway 26L approach. Listen VOR voice.

DAY AND NIGHT MINIMUMS

Category	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-8R	1540	1	428	1540	1	428	1540	1	428	1540	1	428
S-8L	1540	1	425	1540	1	425	1540	1	425	1540	1	425
S-26L	1580	1	458	1580	1	458	1580	1	458	1580	1	458
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1600	1	472	1600	1	472	1600	1¼	472	1880	2	752

Takeoff Runway 8L, 600-1; Runway 26R, 500-1; Runways 8R/26L, Standard.#% Alternate—Standard.

City, Phoenix; State, Ariz.; Airport name, Phoenix Sky Harbor Municipal; Elev., 1128'; Fac. Ident. PHX ASR; Procedure No. Radar-1, Amdt. 2; Eff. date, 9 Apr. 70; Sup. Amdt. No. Radar 1, Amdt. 1; Dated, 8 July 67

20. 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)

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude
070°	290°	15	2500								
290°	070°	15	3000								
000°	360°	15–25	3000								

As established by Atlanta, Ga., minimum altitude vectoring chart. Radar will provide 1000′ vertical clearance within 3-mile radius of tower bearing 025°, 11 miles, 2060′ MSL.

Notes

FAF all ASR runways, 5 miles from thresholds.
% RVR 24 authorized Runways 27L, 33.
% RVR 18 authorized Runways 9R, 9L.
TDZ elevations:
Runway 9L—1024′. Runway 27R—996′.
Runway 9R—1015′. Runway 3—1008′.
Runway 33—986′. Runway 15—1004′.
Runway 27L—981′.
Supplementary charting information:
Tucker Int hold NE, left turns, 1 minute, 213° Inbnd.
ATL VORTAC, hold S, right turns, 1 minute, 017° Inbnd.
Chattahoochee Int hold W, left turns, 1 minute, 087° Inbnd.
REIL Runway 3.

All bearings and distances are from radar site on Atlanta Airport with sector azimuths progressing clockwise.
Missed approach:
Runways 9L and 3—Climb to 3000′ to Tucker Int via ATL VORTAC R 033° and hold.
Runways 27R and 33—Climb to 3000′ to Chattahoochee Int via Rex VORTAC R 267° and hold.
Runway 9R—Climbing right turn to 3000′ direct to ATL VORTAC and hold.
Runway 27L—Climbing left turn to 3000′ direct to ATL VORTAC and hold.
Runway 15—Climb to 3000′ direct to ATL VORTAC and hold.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S–9L	1480	RVR 40	456	1480	RVR 40	456	1480	RVR 40	456	1480	RVR 50	456
S–9R	1480	RVR 24	465	1480	RVR 24	465	1480	RVR 24	465	1480	RVR 50	465
S–33	1340	RVR 24	354	1340	RVR 24	354	1340	RVR 24	354	1340	RVR 50	354
S–27L	1420	RVR 40	439	1420	RVR 40	439	1420	RVR 40	439	1420	RVR 50	439
S–27R	1420	¾	424	1420	¾	424	1420	¾	424	1420	1	424
S–3	1300	1	292	1300	1	292	1300	1	292	1300	1	292
S–15	1520	1	516	1520	1	516	1520	1	516	1520	1½	516
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1520	1	496	1520	1	496	1520	1½	496	1580	2	556
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Atlanta; State, Ga.; Airport name, Atlanta; Elev., 1024′; Fac. Ident., Atlanta Radar; Procedure No. Radar-1, Amdt. 14; Eff. date, 9 Apr. 70; Sup. Amdt. No. 13; Dated, 9 Jan. 69

These procedures shall become effective on the date specified therein.

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

Issued in Washington, D.C., on March 4, 1970.

EDWARD C. HODSON,
Acting Director, Flight Standards Service.

[F.R. Doc. 70–3004; Filed, Mar. 19, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT

Subchapter W is added to read as set forth below:

PART 1001—GENERAL PROVISIONS

Subpart A—Introduction

Sec.

AUTHORITY: The provisions of this Part 1001 issued under 10 U.S.C. Ch. 137 and 10 U.S.C. 8012.

Subpart A—Introduction

§ 1001.101 Purpose of subchapter.

The Hq USAF ASPR Supplement is issued by order of the Secretary of the Air Force and supersedes the Air Force Procurement Instruction (AFPI) previously contained in this subchapter. Its purpose is to supplement Subchapter A, Chapter I of this title and other Department of Defense publications pursuant to § 1.108 of this title, to establish for the Department of the Air Force uniform policies and procedures relating to the procurement of supplies and services. It is emphasized that ASPR (Armed Services Procurement Regulation, Subchapter A, Chapter I of this title) is the primary Department of Defense regulation containing procurement policies and procedures, and is the first regulatory source to which procurement personnel should make reference.

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Procurement Responsibility Authority

§ 1001.401 Responsibility of each procuring activity.

Procurement authorities of major commands, not designated "Head of a Procuring Activity," are as outline in §§ 1001.450 through 1001.455 of this subchapter.

§ 1001.402 Authority of contracting officers.

(a) Only the following purchases may be made by individuals other than duly designated contracting officers.

(1) Imprest fund purchases made according to § 3.607 of this title.

(2) Purchases of fuel, oil, repairs, etc., made according to AFR 67–24 (USAF Invoice—AF Form 15 and Invoice Envelope—AF Form 15A) and AFM 77–1 (Joint Procedures for Management of Administrative Use of Motor Vehicles).

(3) Emergency purchases of medical supplies and equipment made according to paragraph 12, chapter 16, volume V, AFM 67–1 (USAF Supply Manual), followed by issuing a confirmatory purchase order by the base procurement office or a cash purchase receipt by a cash purchasing officer.

(b) The responsibility of contracting officers relative to sale contracts is set forth in chapter 11, volume VI, AFM 67–1.

§ 1001.403 Requirements to be met before entering into contracts.

Except that emergency procurements in combat areas or areas subject to hostile fire or immediately upon entry into DEFCON 2, will be accomplished in the manner prescribed by the commander of the combat theater or by the commander of the major command responsible for logistic support of AF units involved.

§ 1001.405–1 Selection.

In addition to the requirements in Subchapter A, Chapter I of this title, contracting officer appointments will be limited to Commissioned Officers and NCOs (Grades E–6, E–7, E–8, and E–9) who have been awarded AFSC 6516, 6534, 65190, or 65170; or fully qualified civilians who occupy a manning authorization listed under these AFSCs. Limited contracting officers' appointments may be made for the following categories of personnel:

(a) Commissioned officers who have more than one year procurement experience, with authority limited to blanket purchase agreements, delivery orders, purchase orders and modifications thereto.

(b) NCOs in Grade E–5 who have completed the AAR 65170 course or equivalent OJT, with authority limited to blanket purchase agreements, delivery orders, purchase orders and modifications thereto.

(c) Transportation and commissary personnel with authority limited to performance of procurement functions as authorized by this subchapter. Normally, appointments will be limited to commissioned officers, civilians in Grade GS–9 and above and NCOs (E–8 and E–9) who have a minimum of 2 years of traffic management or commissary experience.

§ 1001.405–2 Appointment.

(a) (1) The commander or deputy commander of a base, division, wing, etc., and, in the case of AFLC activities, the Director of Procurement and Production (or other comparable official) will review and sign the request for designation of a contracting officer. In the case of AFSC activities the request for designation of a contracting officer will be reviewed and signed by the Director of Chief of Procurement and Production (or equivalent); however, if this individual is the designating authority, the request will be reviewed and signed by the officer (or civilian) immediately subordinate to him. Chief of the USAFE procurement centers will sign such requests for officers serving within the USAFE procurement centers. The request will include:

(i) A résumé of his qualifications by the applicant.

(ii) A statement by the person signing the request that the qualifications contained in the résumé were verified against the applicant's personnel file.

(iii) If the designee is not an employee of the requesting activity and his qualifications are known, a statement that the designee is qualified.

(iv) If the designee is not an employee of the requesting activity and his qualifications are not known, a summary of an interview of the designee by the chief or duty chief of the procurement activity. The summary will include a statement that the designee is qualified. If the designee is located at a distance which makes it impractical and uneconomical to conduct an interview, this requirement will be waived. Justification for not having an interview will be included. However, the statement that the designee is qualified must still be made.

(2) Request for designation of a representative of a contracting officer will be handled the same as appears in this section, except that:

(i) Unless it is impractical, the contracting officer desiring a representative will initiate the request, sign the statements, and conduct the interview instead of the chief or deputy chief of the procurement activity.

(ii) If the contracting officer takes the action in subdivision (i) of this subparagraph, the chief or deputy chief of the procurement activity will review the request prior to transmittal.

(iii) The approval of the designee's commander will be obtained when the designee is not under the jurisdiction of the designating authority.

(3) Requests for designation will be sent through channels to the appropriate designating authority. Requests for designation of personnel as contracting officer, who do not meet the full criteria in § 1001.405–1 of this subchapter, together

with the following additional information, may be submitted by the appropriate designating authority to Hq USAF (AFSPPLC), for review and approval.

(i) Complete justification for the proposed appointment.

(ii) Action taken to preclude recurrence of a situation where other than qualified personnel are recommended for appointment as a contracting officer.

(iii) A list of persons in the same office who are qualified for appointment, their present duties, and whether they are now appointed contracting officer.

(4) Designations and terminations of representatives of contracting officers will be in letter form.

§ 1001.405–50 Distribution of designation and termination of appointment instruments.

Each designating authority will promptly distribute copies of instruments of designation and termination as follows:

(a) *Designation of contracting officers.* (1) Original to the individual designated.

(2) One true copy to the individual designated (to be furnished by that individual to the accounting and finance officer if requested by the latter).

(3) In the case of military personnel, one true copy to the activity having custody of the military field personnel records for permanent retention in the individual's personnel file.

(b) *Termination of contracting officer.* Distribution as provided in paragraph (a) of this section, except, paragraph (a)(2).

(c) *Designation of representatives.* (1) Original to the individual designated.

(2) One true copy to the contracting officer whom the representative serves.

(d) *Termination of representatives.* Distribution as provided in paragraph (c) of this section.

§ 1001.405–51 Representatives of contracting officers.

(a) The appointment of representatives of contracting officers will not be made unless it is determined that the duties of the individual cannot be performed by: (1) Appointment as a limited contracting officer, or (2) designation of a government agency or position in the contractual document as authorized by paragraph (c) of this section.

(b) The designating authority may designate an officer, warrant officer, civilian, or noncommissioned officer to act as representative of a contracting officer or his duly designated successor. The written designation will contain specific instructions as to the extent to which the representatives may take action for the contracting officer but will not contain authority to sign contractual documents.

(c) A Government agency or position (by title but not an individual by name) may be designated in the contractual document to perform specific functions under the contract. Such functions may include inspection, approval of shop drawings, testing, approval of samples, scheduling and signing work orders or equipment orders, determining number of hours for a job, and other functions of a technical nature not involving a change to the scope, price, terms, or conditions of the basic contract or order. The responsibilities and limitations of the agency or position will be set forth in the contract or in a separate letter. If a letter is used a copy will be furnished the contractor. The contracting officer will monitor the actions of the designated agency or position to insure that they do not exceed assigned functions. The functions assigned will not violate policies (e.g., base procurement centralization policy) which reserve certain actions or authorities to contracting officers or which require approval prior to placing the authority or procedure in effect.

(d) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative nor designation in a contractual document to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in his behalf and as such has the inherent authority to perform acts as assigned by the contracting officer. The contracting officer cannot authorize his employees to sign any contractual document or letter where the signature of a contracting officer is required.

§ 1001.405–52 Organization placement and other duties of contracting officers.

(a) Commanders and others having administrative supervision over contracting officers will bear in mind that acts exceeding the delegated powers of the contracting officer do not bind the government and will refrain from directing contracting officers to take action which might expose the contracting officer to serious consequences. The office of the contracting officer should be placed, in the local organization at a level which will protect it from intraorganizational pressure which might lead the contracting officer to perform improper acts exposing him to personal risk and the Air Force to criticism.

(b) Except as provided in this subpart contracting officers will neither act as, nor perform the duties of, a contracting officer with respect to any contractual instrument obligating only nonappropriated funds. Contracting officers may act in an advisory capacity with respect to such instruments. Contracting officers are authorized to enter into and execute contracts funded, either partially or completely, with nonappropriated funds for construction work and architect engineer (A&E) services.

(c) Contracting officers will not be assigned additional duties which will interfere with their procurement duties.

§ 1001.450 Secretary.

The Secretary establshes policies for, and directs and supervises, the Department's activities with respect to procurement and related matters. The General Counsel, as his legal advisor, is the final authority on all legal questions relating thereto. By delegation of authority from the Secretary, policies established by him are implemented and other appropriate instructions are issued to lower echelons by the Deputy Chief of Staff, Systems and Logistics, USAF, and the Director of Procurement Policy.

§ 1001.451 Delegations of authority.

Certain specific delegation of authority instructions with respect to procurement are referenced in subsequent sections of this subpart. In addition to limitations and conditions applicable to individual delegations and included therewith, the provisions of the paragraphs below apply to all delegations of procurement and are published in this section to eliminate their repetition.

(a) All redelegations of authority as well as withdrawals or rescissions thereof will be made in writing over the personal signature and title of the person vested with the authority. Delegations and redelegations will be made to official positions and not to individuals by name, except in the case of designations of contracting officers and representatives of contracting officers.

(b) Delegations of authority do not affect the authority of the delegator to exercise any of the authority delegated or to issue instructions concerning the exercise of such authority.

(c) Authorities delegated may not be redelegated except as expressly provided in individual authorizations.

(d) Delegations of authority to air attachés may be exercised only by air attachés on duty in foreign countries. Delegations of authority to chiefs of AF foreign missions or chiefs of AF sections of joint military missions may be exercised only when the missions are not operating under the jurisdiction of an oversea command.

(e) In the absence of a person occupying a position to which authority has been delegated, the authority may be exercised by the person who is occupying the position in an "acting" capacity. "Absence" refers to absence from the installation on leave or temporary duty travel. In cases of extreme emergency "absence" may be construed to mean absence from the office regardless of whereabouts, except redelegations of authority which must be accomplished by the person occupying the position to which authority has been delegated.

(f) Approval of awards and manual approval of contracts authorized by delegations of authority will be made in person by the individual occupying the position to which the authority has been delegated. Execution of such approval by one individual for, or over the signature of, another is unauthorized. Persons serving in an acting capacity will execute authority as delegated, over their own name as acting chief, deputy chief, etc. Awards and contractual instruments in excess of the contracting officer's authority which require approval by higher authority will be reviewed by competent persons prior to manual approval.

(g) In the event that a person acts without the requisite authority, his action may, under certain circumstances, be later ratified.

(1) For purchases involving $2,500 or less, made by persons to whom requisite

authority has not been delegated, the individuals designated below are authorized to ratify such a transaction in the case of persons under the jurisdiction of the major commands (other than AFLC and AFSC) by the commander of the respective major command with power of redelegation to the DCS/materiel or comparable office within the major command headquarters, and AFLC and AFSC by the commanders of the first echelon of command immediately subordinate to Hq AFLC and AFSC. Each such transaction will be submitted for review and possible ratification according to the following procedures:

(i) A statement of all pertinent facts of the transaction, accompanied by a file of all relevant documents and records will be forwarded (over the signature of the base commander or officer who has command over the installation in which the unauthorized act occurred) to the DCS/materiel or equivalent staff office of the respective major command or to the AFLC or AFSC activity designated the ratification authority. Cases involving tenant organizations will be forwarded to the major command to which the tenant is assigned. The statement will include description of any disciplinary action taken or an explanation why none was considered necessary and a description of action taken to prevent recurrence of the unauthorized act. In the case of tenant organizations or nontenant individual not under the jurisdiction of the installation commander, a statement pertaining to disciplinary action will be furnished by the appropriate commander. The individual having committed the unauthorized act will be responsible for furnishing to the contracting officer all the pertinent facts, records, and documentation concerning the transaction. The contracting officer will be responsible for reviewing and determining adequacy of all facts, records, and documentation furnished; preparing the statement of facts; and obtaining approval as to legal sufficiency from the local staff judge advocate as to whether the transaction is ratifiable or whether the matter should be processed under Part 17, Subchapter A, Chapter I of this title (Public Law 85–804) or as a GAO claim; and stating whether the prices involved are considered fair and reasonable.

(ii) The procurement staff officer within the DCS/materiel or equivalent staff office of the respective major command or the procurement staff office designated by the individual responsible for ratification at the AFLC or AFSC activity, will review the file, obtain any additional evidence required including approval as to legal sufficiency by the staff judge advocate, and prepare a recommendation as to whether the transaction should be ratified stating reasons therefor. Advice against ratification will include a recommendation as to whether the matter should be processed under Part 17, Subchapter A, Chapter I of this title (Public Law 85–804) or as a GAO claim. The complete file will be forwarded to the individual responsible for ratification as indicated in this paragraph (g).

(iii) When the complete file is received by the individual responsible for ratification, he may ratify if he deems it in the best interest of the government. No transaction will be ratified that would not otherwise have been valid if made by a properly authorized contracting officer.

(2) Purchases of more than $2,500 by persons to whom authority has not been delegated may be ratified by:

(i) The Deputy Chief of Staff, Procurement Hq AFLC, when the unauthorized action is by a person under the jurisdiction of AFLC.

(ii) The Deputy Chief of Staff, Procurement and Production, Hq AFSC, when the unauthorized action is by a person under the jurisdiction of AFSC.

(iii) The appropriate head of a procuring activity, when the unauthorized action is by a person who is under the jurisdiction of commands other than AFLC or AFSC: *Provided, however,* That all such proposed transactions must be reviewed by the Staff Judge Advocate, Hq AFLC, prior to ratification action.

(3) Transactions which have been ratified will be forwarded to the appropriate contracting office for issuing a purchase order or contract for payment purposes, citing 10 U.S.C. 2304(a)(3) if $2,500, or less, or 10 U.S.C. 2304(a)(10) if more than $2,500, or other negotiation authority, if appropriate.

(4) Contracting officers do not have the authority to ratify unauthorized acts.

(h) When contracting authority is limited as to dollar amount, the limitation includes:

(1) Any contractual instrument initially involving a sum in excess of the dollar limitation considering the aggregate of obligated and committed funds and any potential "connecting charge" or "termination liability" established therein.

(2) Contracts firmly negotiated for the total cost of the program, as stated therein, but which are funded for less than total cost of the program as firmly negotiated.

(3) The estimated dollar amount of supplies and services to be procured during the contract period of requirements and indefinite quantity contracts, even though no funds are committed or obligated thereby. Such contracts are required to include on their face as an administrative recital a bona fide estimate of such aggregate amount.

(4) Any contractual instrument in excess of the dollar limitation that increases the allotment of funds for reimbursement under a cost-reimbursement or time-and-materials type of contract.

(5) Any contractual instrument, regardless of total contract consideration, which accomplishes a change that would increase the cost to the Government by more than the dollar limitation were there not offsetting credits provided in the same contractual instrument.

(6) Except as otherwise authorized, any supplemental agreement defining change orders when the change orders being definitized accomplishes a change which increased the cost to the Government by more than the dollar limitation regardless of whether there are offsetting credits provided in the same supplemental agreement.

(7) Utility contracts—the estimated annual service charge plus the connection or termination charge, if any.

(i) When contracting authority is limited as to dollar amount, the limitation does not include:

(1) Contractual instruments which do no more than commit funds for engineering changes or provisioning items, whether or not there was any previous commitment for such items.

(2) Contractual instruments increasing fund obligations under partially funded contracts when not exceeding the firmly negotiated total cost of the program as stated in the prime contract.

(3) Contractual instruments obligating funds covering calls issued under terms of requirements and indefinite quantity contracts.

(4) Change orders.

(5) Contractual instruments which obligate funds for provisioning items where the approved contract contained an item for provisioning spares, ground handling and support equipment, etc.

(6) Communication Service Authorizations (CSA).

(7) Blanket Purchase agreements as set forth in § 3.605 of this title.

(j) Authorities vested in chiefs of AF foreign missions are likewise vested in AF sections of joint military missions.

(k) Requirements aggregating more than the dollar amount of the contracting authority delegated will not be broken down into more than one purchase transaction for the purpose of avoiding authority limitations.

(l) Authorities vested in deputy directors of procurement and production are likewise vested in technical associates performing procurement and production functions at comparable level.

§ 1001.452 General procurement authority.

The delegation referenced in this section is a general one, and all other existing or future delegations, regulations, or directives issued by competent authority, to the extent to which they would, expressly or by reasonable implication, limit the scope of or impose conditions or restrictions upon the exercise of the general authorities cited in below referenced delegation instruments, will be controlling over it. This includes authority to enter into, execute, and approve contracts. This authority has been delegated to Deputy Chief of Staff, Systems and Logistics and the Director of Procurement Policy, DCS/S&L, by Secretary of the AF Order (SAFO) 650.4, dated May 22, 1969, and redelegated to the Major Commands by Director of Procurement Policy (AFSPP), Hq USAF subject Delegation Letter, dated May 23, 1969.

§ 1001.453 Designation of heads of procuring activities.

(a) Commanders of AAC, ADC, AFLC, AFSC, ATC, MAC, PACAF, SAC, TAC and USAFE, and the Director of Procurement Policy, DCS/S&L, Hq USAF,

are each designated as a "Head of a Procuring Activity" within the Department of the Air Force by Secretary of the AF Order (SAFO) 660.1 dated May 22, 1969. The commander of each procuring activity designated above may authorize an individual, not below the level of the staff officer responsible for procurement within the Major Command headquarters, to act for him in exercising those ASPR prescribed responsibilities which are vested only in the "Head of a Procuring Activity." This authority is not applicable to Part 17, Subchapter A, Chapter I of this title, Extraordinary Contractual Actions to Facilitate the National Defense. Major Commands who are not designated HPAs but who have a need for one of the ASPR prescribed responsibilities which are vested only in the HPA, will submit the request for such responsibilities to the Director of Procurement Policy, DCS/S&L, Hq USAF.

(b) The persons listed in this paragraph are authorized to act in the capacity of a head of a procuring activity when a specific ASPR gives the authority to "a Head of a Procuring Activity or his designee."

(1) Commanders of Major Commands with power of redelegation not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to the major command.

(2) Air attachés and chiefs of AF foreign missions.

§ 1001.454 Contracts for public utility services extending beyond current fiscal year but not exceeding 10 years.

(a) *Contracts for public utilities.* (1) That authority delegated to the Director of Procurement Policy to enter into contracts for public utility services has been redelegated by AFSPP letter dated May 23, 1969, to the commanders of major commands with authority to make, in writing, successive redelegations. The authority redelegated shall be exercised in accordance with the conditions, directions, and limitations set forth in ASPR Supplement No. 5 and subject to the administrative procedures for review of utility contracts as contained in Air Force Regulation 91–5 (Utility Services).

(b) *Contracts for communication services.* (1) The Director of Procurement Policy, DCS/S&L, Hq USAF has been authorized to enter into contracts for communication services for periods extending beyond the current fiscal year but not to exceed 10 years, under one or more of the following circumstances.

(i) When services are obtained from communication common carrier whose rates are regulated by a Federal, State, or other public regulatory body;

(ii) Where the services are obtained by competitive means from other than communication carriers and;

(a) Where there are obtained lower rates, larger discounts, or more favorable conditions of service than those available under contracts the firm term of which would not extend beyond a current fiscal year.

(b) Where nonrecurring or termination charges payable under contracts the firm term of which would not extend beyond a current fiscal year are eliminated or reduced.

(iii) The termination liability incurred by the contract, when added to the cumulative termination liabilities of existing contracts does not exceed the termination liability ceilings imposed by public law or departmental administrative procedures.

(2) The authority of the Director of Procurement Policy, DC S&L, Hq USAF, has been delegated by letter of May 23, 1969 to the persons listed below:

(i) The Commander, AFLC with power of redelegation.

(ii) Commander, Air Force Communication Service and Commander-in-Chief, U.S. Air Forces in Europe, with respect to leased private line services and leased tactical on-base communication services, with power of redelegation.

(iii) Commanders of major commands with respect to miscellaneous base services and facilities. That portion of the above authority involving the procurement of miscellaneous base services and facilities under indefinite delivery contracts issued by AFLC or GSA, may be redelegated to contracting officers of subordinate functions.

§ 1001.455 Procurement support in urgency areas or situation.

Areas or situations of a military operational nature develop from time to time which require rapid procurement response to insure timely logistic support. Hq USAF (AFSPP) will designate such areas or situations as they arise. Judicious use will be made of these authorities to insure that urgent requirements are satisfied without degrading good management or business practices. The procedures and authorities of this section will apply only to procurements in support of that area or situation. Further implementation of this section is not permitted.

(a) Procurements identified as South East Asia (SEA) support will be considered as in direct support of operations in Vietnam and this section applies.

(b) The authority to use letter contracts is delegated to the director of procurement and production at AFLC AMAs and AFSC divisions and centers of their comparable levels.

(c) On protests before award made to higher authority, except to the Comptroller General, an award may be made by the contracting officer after approval of the director of procurement and production at AFLC AMAs and AFSC divisions and centers, or their comparable levels, and with the advice of the Judge Advocate General.

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Small Business Concerns

§ 1001.706 Set asides.

§ 1001.706–1 General.

(a) If Preinvitation Notices are used (§ 2.205–6 of this title) include the applicable small business size determination in the notice and in the transmittal to the "Commerce Business Daily" and require prospective bidders to state in their replies to the notice whether they qualify as a small business concern. Do not make a determination regarding a set-aside until replies to the notice have been received to determine the extent of available small business competition.

PART 1003—PROCUREMENT BY NEGOTIATION

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—Types of Contracts

§ 1003.410–3 Call procurement arrangements.

(a) *Special Orders Clause.* Any call procurement arrangement issued according to this program will contain the following clause in addition to the clauses required or authorized for a contract of the type described for the procurement arrangement.

ORDERS (JANUARY 1963)

(a) Upon receipt by it of any Delivery Order issued hereunder by the Contracting Officer, the Contractor, pursuant to such order, shall furnish to the Government supplies or services of the type and at the prices set forth in the Schedule. Orders may be issued at the sole option of the Contracting Officer during the period set forth in the Schedule. It is understood and agreed that the Government undertakes no obligation hereby to issue orders hereunder. The provisions of this arrangement, including the Schedule, shall govern all orders issued hereunder during the aforementioned period.

(b) Delivery Orders for supplies or services shall be issued by the Contracting Officer in writing, dated, and numbered. They shall set forth (i) the supplies or services being ordered, (ii) the quantities to be furnished, (iii) delivery or performance dates, (iv) place of delivery or performance, and (v) packing and shipping instructions, if any. Amendments to delivery orders may be issued by the Contracting Officer by written change order. Each delivery order of change order which increases the dollar amount, shall contain a citation of funds from which payment for the supplies or services ordered shall be made.

(10 U.S.C. Ch. 137, 10 U.S.C. 8012)

PART 1006—FOREIGN PURCHASES

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Canadian Purchases

Sec.

1006.550 Basic agreement.

1006.551 Research contracts with Canadian educational institutions.

1006.552 Solicitation of Canadian sources for research and development.

AUTHORITY: The provisions of this Part 1006 issued under 10 U.S.C. Ch. 137, 10 U.S.C. 8012.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Canadian Purchases

§ 1006.550 Basic agreement.

The Air Force has in effect a cost reimbursement type basic agreement and a fixed price type basic agreement with the Canadian Commercial Corporation. Required copies of the current basic agreement may be obtained from the Aeronautical Systems Division (ASKBB–10), Wright-Patterson AFB, OH 45433.

§ 1006.551 Research contracts with Canadian educational institutions.

The Canadian Government, through the Defense Research Board of Canada, has requested that all research procurements contemplated with educational institutions in Canada be cleared through a central point to prevent U.S. agencies from duplicating support of research projects already supported by Canadian Government agencies. Accordingly, the following procedure will govern in the placement of research contracts with Canadian educational institutions.

(a) Unclassified Requests for Proposal will be forwarded directly to the institution, provided two copies are forwarded concurrently to the Defense Research Member (DRM), Canadian Joint Staff, 2450 Massachusetts Avenue NW., Washington, D.C. 20008. Unless the DRM advises that the proposed institution is not in a position to undertake the research, procurement action will proceed in a normal manner.

(b) Unsolicited research proposals received from Canadian institutions involving basic research will be forwarded to OAR (SRGP). Those involving exploratory development, advance engineering, or advance development will be forwarded to AFSC (SCKPP).

(c) Unclassified research contracts awarded to Canadian educational institutions will be forwarded directly to the institution, provided one copy is forwarded concurrently to the DRM and one copy concurrently to the Chairman, Defense Research Board, Headquarters, Department of National Defense, Ottawa, Canada. Unless the institution is advised to the contrary by DRM; it will execute the contract. Subsequent to the execution for the U.S. Government, the procuring contracting officer will notify the Defense Research Member, Washington, D.C., of the date of award.

(d) Requests for proposals involving U.S. classified defense information will be forwarded to Hq AFSC (SCL–21) for action.

§ 1006.552 Solicitation of Canadian sources for research and development.

(a) To carry out the President's mandate that full advantage be taken of the scientific talents of friendly countries through a mutual sharing of scientific and technical information, a program for closer collaboration with Canada in research and development has been adopted. This program together with the provisions of certain bilateral agreements between Canada and the United States, has made it desirable to state more specifically certain AF procurement policies and procedures in the area of research and development as they relate to Canada.

(b) It is AF policy to consider for solicitation qualified Canadian sources on an equal basis with qualified U.S. sources for the placement of Research and Development contracts. Such solicitation will include areas that may be agreed upon from time to time where it is evident that mutual benefit will accrue.

(c) Solicitation for the placement of such contracts should be made at a point in the research and development cycle at which the Air Force has an approved technical requirement necessitating the establishment of a research and development project which is normally assigned to and monitored by an AFSC division.

Subpart F—Duty and Claims

§ 1006.603–4 Customs entries and duty free certificates.

(a) The Commander, AFLC, has delegated to the Deputy Chief of Staff/Distribution, Hq AFLC, authority to prepare the Consumption Entry (Customs Form 7501) and the Consumption Entry Permit (Customs Form 7501A) and to execute duty-free entry certificates in the form set forth in § 6.603–4 of this title for emergency purchases of war materials, as defined in § 6.603–1 of this title, with power of redelegation.

(b) Authority to prepare Customs Forms 7501 and 7501A and to execute duty-free entry certificates has been redelegated to (with power to appoint agents):

(1) For purchases in European area:

USAF Water Port Logistics Officer, Military Ocean Terminal, Brooklyn, N.Y. 11250.

(2) For purchases in Caribbean and South American area:

USAF Water Port Logistics Officer, 4400 Dauphine Street, New Orleans, La. 70140.

(3) For purchases in Pacific area:

USAF Water Port Logistics Officer, Oakland Army Base, Oakland, Calif. 94616.

Subpart G—[Reserved]

Subpart H—Balance of Payments Program—Procurement of Supplies and Services for Use Outside the United States and Procurement of Scientific and Technical Knowledge Involving Foreign Expenditures

§ 1006.850–6 Format for BUSH contracts.

BUSH contracts will consist of a Cover Page (Standard Form 26, Award/Contract), Schedule, General Provisions for Fixed Price Supply Contract, additional General Provisions, when applicable, and BUSH Authorized Price List.

(a) Cover Page (Standard Form 26). Part 16, Subpart A, Chapter I of this title.

(b) Schedule Provisions.

(1) Scope of Contract (August 1967).

(i) The Contractor shall furnish and deliver in implementation of the Balance of Payments Program, U.S. end products as specified in the attached BUSH Authorized Price List at the unit price stated therein, when ordered by an authorized ordering activity in compliance with all terms and conditions of this contract.

(ii) The attached BUSH Authorized Price List is incorporated herein and shall be hereinafter referred to as the "APL."

(2) Contractual Period.

Performance period of this contract will be effective_____and ending _____. (August 1967)

(3) Office of Administration. (August 1967)

(i) The following office is assigned overall administrative responsibility for this contract:

(Insert BUSH Office Indigeneous Address.)

(ii) All correspondence written to U.S. Government activities concerning this contract shall be in the English language and all cost incident thereto is the responsibility of and shall be borne by the Contractor.

(4) Printing and distribution of APLs (August 1967).

The Contractor, at no cost to the U.S. Government, shall print, package and deliver to the Procurement Office using this contract—copies of the APL. Packaging shall be in accordance with instructions issued by the Contracting Office. In the event additional copies of the APL are requested by ordering activities, the Contractor will furnish them at no cost to the U.S. Government.

(5) Special Marking Instructions. (August 1967)

Notwithstanding any other provisions of this contract concerning markings for shipment, the Contractor shall prepare a DD Form 1387, Military Shipment Label, and attach this label to the outside shipping container of all items delivered to (Insert First Destination delivery point), for subsequent transshipment by the Government as otherwise provided for under the terms of this

contract. Copies of these forms and preparation instructions may be obtained by contacting the office having overall administrative responsibility for this contract.

PART 1007—CONTRACT CLAUSES

Subpart A—Clauses for Fixed-Price Supply Contracts

Subpart B—Clauses for Cost-Reimbursement Type Supply Contracts

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Clauses for Construction and Architect-Engineer Contracts

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—[Reserved]

Subpart J—[Reserved]

Subpart K—[Reserved]

Subpart L—[Reserved]

Subpart M—[Reserved]

Subpart N—[Reserved]

Subpart O—[Reserved]

Subpart P—Clauses for Food Service Contracts

Subpart Q—Clauses for Contracts for the Rental of Supplies and Equipment

AUTHORITY: This Part 1007 issued under 10 U.S.C. Ch. 137, 10 U.S.C. 8012.

Subpart A—Clauses for Fixed-Price Supply Contracts

§ 1007.103–2 Changes.

(a) If considered desirable by the contracting officer the period of 30 days within which any claim for adjustment must be asserted can be increased to 60 days.

(b) For contracts in which it is anticipated that the contractor will submit Engineering Change Proposals the following clause is authorized as an addition to § 7.103–2 of this title, Changes clause.

ENGINEERING CHANGE PROPOSAL (JULY 1968)

If the Contractor submits a change proposal to the Government for consideration, he shall include a "not to exceed" amount of the equitable adjustment acceptable to him under the Changes clause if the Government orders such change pursuant to that clause. The change will be evaluated on the basis of such amount and if ordered, the equitable adjustment, therefor, shall not exceed such amount.

§ 1007.104–61 Frequency authorization.

When the clause in § 7.104–61 of this title is used, the procuring contracting officer will insert instructions in the contract schedule which are compatible with guidance contained in Communications-Electronics Doctrine (CED) 3164.4 and CED 3154.3d, AFM 100–31 (Electromagnetic Compatibility and Frequency Management).

§ 1007.104–70 F.O.B. origin.

(a) All central procurement contracts (except purchase orders issued on DD Form 1155 and contracts issued under small purchase procedures) which provide for delivery of supplies will contain the clause set forth below. Other contracts may contain this clause or a GBL clause adapted to the particular contract.

GOVERNMENT BILL OF LADING AND MAILING INDICIA (AUGUST 1966)

(a) When it is provided in this contract that the supplies shall be delivered other than FOB specified destinations, or freight prepaid, shipment(s) shall be made on U.S. Government Bills of Lading or U.S. Government Mailing Indicia. The required number of Government Bills of Lading and Mailing Indicia shall be furnished to the Contractor by the cognizant transportation or other activity. The Contractor shall acknowledge receipt of Government Bills of Lading and Mailing Indicia in the manner prescribed by the issuing office. As shipments are made, the Contractor shall prepare, or complete, and distribute Government Bills of Lading in accordance with instructions of the issuing office.

(b) U.S. Government Mailing Indicia shall be used in lieu of U.S. Government Bills of Lading when weight, cube character of commodity permit movement within the U.S. Postal System.

(c) The Contractor agrees that Government Bills of Lading and Mailing Indicia in excess of the requirements of this contract shall be returned to the issuing office(s) not later than submission time of final invoice for payment. The Contractor also agrees that no mailing charge is, or will be, included in the cost/price for postage fees in those instances wherein Government Mailing Indicia is authorized and used.

(d) For the purpose of this clause, the term supplies shall include correspondence, publications, and other written material.

(e) Paragraph (d) of the above clause will be omitted if mailing indicia is not to be furnished the contractor for mailing written material. Based on the provisions of AFR 182–15 (Official Mail—Policies and Procedures) and the particular procurement involved, the contracting officer will determine the feasibility of including mailing indicia for written material. A major area of consideration should be that the anticipated savings exceed the cost of implementation.

§ 1007.104–71 F.O.B. destination.

§ 1007.104–78 Safety and accident prevention.

Any contract, other than construction which is to be performed in whole or in part on the AF base or other AF installation under the direct control of the Government will contain the following clause.

SAFETY AND ACCIDENT PREVENTION (JUNE 1969)

In performing any work under this contract on premises which are under the direct control of the Government, the Contractor shall (i) conform to all safety rules and requirements prescribed in Air Force Manual 127–101, as in effect on the date of this contract and (ii) take such additional precautions as the Contracting Officer may reasonably require for safety and accident prevention purposes. The Contractor agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of Contractor and Government personnel performing or in any way coming in contact with the performance of this contract on such premises. Any violation of such rules and requirements, unless promptly corrected, as directed by the Contracting Officer, shall be grounds for termination of this contract in accordance with the default provisions hereof.

§ 1007.104–100 Restrictions on printing.

The inclusion of printing (the processes of hot-metal typesetting, preparation of lithographic negatives, presswork, and binding), within contracts for the manufacture and/or operation of equipment and for services such as architectural, engineering, and research, is prohibited. Accordingly, any contract which requires the reproduction of reports, data, or other written material will include the following clause.

RESTRICTIONS ON PRINTING (JUNE 1969)

Reproduction of reports, data or other written material, if required, is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in the aggregate.[1] Reproduction of material in excess of the quantities cited above shall not be accomplished without express prior written authorization from the contracting officer. These restrictions do not preclude the writing, editing, preparation of manuscript or reproducible copy of related illustrative materials if required as a part of this contract. They do not apply to the printing of duplicating required by contractors for their own use in responding to the terms of this contract.

[1] The aggregate number of production units is to be determined by multiplying pages times copies. For purposes of this paragraph a production unit is one sheet, size 11" x 17" or less (10¾" x 4¼" maximum image), one side only, one color.

Deviations from the above clause may be granted by the contracting officer only after complying with the requirements specified in AFR 6–1 (Policies and Procedures Governing AF Printing and Duplicating).

§ 1007.104–101 Use of Government facilities on no charge basis.

Where facilities have been placed with a prime contractor under a facilities contract, which provides that use on a no-charge basis in performing Government contracts may be authorized, and it is desired to permit the use of such facilities on a no-charge basis, the following provision, completed with appropriate information, will be placed in the Schedule of any negotiated supply, service, or research and development contract with that prime contractor, provided the Government receives adequate consideration and the contractor is not thereby placed in a favored competitive position. Paragraph (b) of the following provision will be included only when: (i) The price or fee of the prime contract is negotiated on the specific understanding that the use of the facilities without charge will be permitted in the performance of the specified subcontract items by the specified subcontractors, and (ii) the subcontractor is not thereby placed in a favored competitive position.

USE OF GOVERNMENT FACILITIES ON A NO-CHARGE BASIS

(a) The Contractor is authorized to use, in the performance of this contract, the Government-owned facilities provided to it under Facilities Contract_____, in effect on the date of this contract, on a no-charge basis.

(b) The following subcontractors having Government-owned facilities provided under the Facilities Contracts set forth below, in effect on the date of this contract, are authorized to use such facilities on a no-charge basis for the subcontract items listed below, and the subcontract shall so provide:

Subcontractor	*Facilities contract number*	*Subcontract item*
_____	_____	_____
_____	_____	_____

(c) If the Contractor enters into other subcontracts with subcontractors who have Government-owned facilities provided to them under Facilities Contracts which provide that no-charge use may be authorized, the Contracting Officer may authorize the use of such facilities on a no-charge basis, provided (i) he determines that such use will not give the subcontractor a favored competitive position, and (ii) this contract is amended to reflect adequate consideration to the Government for the use of such facilities on a no-charge basis. Such subcontracts shall specifically authorize the no-charge use, and require the manual approval of the Contracting Officer. No amendment to this contract will be required, as provided in (ii) above, if the Contracting Officer determines that an elimination of charge for use of such facilities will of itself result in an adequate decreased cost to the Government under this contract.

(d) If the Government-owned facilities provided to the Contractor or any subcontractor hereunder on a no-charge basis are increased or decreased or do not remain available during the performance of this contract or if any change is made in the terms and conditions under which they are made available, such equitable adjustments as may be appropriate will be made in the terms of this contract, unless such increase or decrease was contemplated in the establishment of the price of this contract or a subcontract.

(e) The Contractor agrees that it will not directly or indirectly, through overhead charges or otherwise, include in the price of this contract, or seek reimbursement under this contract for, any rental charge paid by the Contractor for the use on other contracts of the facilities referred to herein. Any subcontract hereunder which authorizes the subcontractor to use Government facilities on a no-charge basis shall contain a provision to the same effect as this paragraph (e).

§ 1007.104–102 Procurement contracts requiring the provision of additional facilities under separate facilities contracts.

When a procurement contract, supplement, or change is negotiated on the basis that additional facilities will be provided to the contractor under a separate facilities contract and appropriate approval has been accomplished in accordance with § 1013.302 of this subchapter, the following clause will be inserted into the procurement contract:

PROVISIONING OF ADDITIONAL FACILITIES UNDER SEPARATE FACILITIES CONTRACT (JULY 1969)

(a) The terms and conditions of this contract are based on the providing to the Contractor of certain facilities. These are identified as specifically as practicable in the Schedule; and are of the estimated cost therein listed. The parties agree to enter into a separate facilities contract, as the case may be, under mutually acceptable terms and conditions, at the earliest practicable date. (The separate facilities contract, or the amendment to an existing facilities contract shall be in a form prescribed by the appropriate sections of the Armed Services Procurement Regulations in effect on the date such facilities contract or amendment is executed.) Such facilities shall be provided on a no-charge basis in accordance with the clause of this contract entitled: "Use of Government Facilities on No-Charge Basis."

(b) It is agreed that if such facilities are not provided at the time and to the extent provided in the Schedule, an equitable adjustment shall, upon timely written request of the Contractor, be made in the terms and conditions of this contract to the extent required by the failure to provide such facilities.

NOTE: If the procurement contract does not already contain the clause in § 1007.104–101 of this subchapter, "Use of Government Facilities on No-Charge Basis", insert the following in lieu of the last sentence of paragraph (a) of the clause above: "Such facilities shall be provided on a no-charge basis, and at the time that the facilities contract is executed, this contract shall be amended to include the clause in § 1007.104–101 of this subchapter entitled: "Use of Government Facilities on No-Charge Basis."

The estimated cost to be listed in the schedule pursuant to the above clause must include the total dollar value of the required facilities expenditures plus the acquisition cost of the items to be furnished directly from the industrial reserve or from other Government sources. The identification of the facilities required by the above clause "as specifically as practicable" requires a listing of the types of facilities to be provided, e.g., buildings, pavements, machine tools, and production, processing, handling, laboratory, or testing equipment. Such listing is to set forth the best estimated quantities of the facilities to be provided. Such listing will

specifically provide that no industrial facilities costing $1,000 or less will be provided by the Government. If the contract does not qualify for no-charge use of the facilities under § 13.402 of this title, the last sentence of paragraph (e) of the clause above will be appropriately revised, including where applicable, terms under which all or part of the facilities are to be provided to subcontractors performing subcontracts under the procurement contract. Where a contractor is to be permitted to obtain the benefit of the use by certain of its subcontractors of Government facilities in the possession of such subcontractors, on a no-charge basis (as provided in paragraph (b) of the clause in § 1007.104–101 of this subchapter, paragraph (a) of the clause above will be modified to provide such authority).

§ 1007.105–2 Approval of contract.

Whenever the contract requires manual approval, other than by the contracting officer, prior to becoming effective, insert the clause in § 7.105–2 of this title, supplying the word "Secretary" in the blank space in that clause.

§ 1007.106–4 Escalation clause for platinum.

The following price escalation clause is authorized for use in advertised or negotiated fixed-price supply contracts for platinum.

PRICE ESCALATION (AUGUST 1967)

(a) The Contractor represents that the unit prices set forth in this contract do not include any contingency allowance to cover the possibility of increased costs of performance resulting from increases in the prices which the Contractor is charged for the platinum required in the performance of this contract.

(b) Each contract unit price shall be subject to revision, pursuant to the provisions of this clause, to reflect changes in the cost of platinum.

(c) The platinum price set forth elsewhere in the Schedule of this contract shall be used by the Contractor in computing his unit price for each item for which the Contractor is required to furnish platinum. Within 60 days after completion of deliveries under the contract the Contractor shall submit to the Government a certified statement setting forth the number of troy ounces of platinum which the Contractor has furnished in the performance of the contract and the price paid per troy ounce. This statement shall be supported by invoices showing payment to the supplier of the material: *Provided however*, That written concurrence of the Contracting Officer will be obtained prior to purchase of any platinum subject to price revision under this clause, the price of which exceeds 110 percent of the price per troy ounce set forth in the contract.

(d) Upon receipt of the Contractor's statement and invoices showing the amount of platinum which the contractor has furnished in performance of the contract, the difference between the price per troy ounce set forth in the contract for computation of unit prices and the price per troy ounce actually paid by the contractor shall be computed and multiplied by the number of troy ounces of platinum which the contractor has furnished in the performance of the contract. Any difference between the price per troy ounce allowed for computation of unit price in the contract and the price per troy ounce actually paid by the contractor shall be adjusted by a "Change Order" to the contract either increasing or decreasing the unit price per item and the total amount of the contract.

(e) In the event of any total or partial termination of any item of this contract for the convenience of the Government, the month in which notice of such termination is received by the Contractor if prior to the month in which delivery is required by this contract, shall be considered the month in which delivery of such terminated or partially terminated item is required for the purpose of determining the current materials prices under paragraphs (c) and (d) hereof: *Provided, however*, That as to the quality of such items which is not terminated for convenience, the month in which delivery is required by this contract shall continue to apply for determining said prices. In the case of termination of any item for default on the part of the Contractor, any price revision shall be limited to the quantity of each item which has been delivered by the Contractor and accepted by the Government prior to receipt by the Contractor of notice of termination for default.

(f) As used in this clause the phrase "the month in which delivery of supplies is required to be made in accordance with the terms of this contract" shall mean any month in which under the terms of this contract a specific quantity of units of the supplies called for by this contract is required to be delivered: *Provided, however*, That in case of the failure of the Contractor to make the delivery of such quantity shall have arisen out of causes beyond the control and without the fault of negligence of the Contractor, within the meaning of paragraph (c) of the clause of this contract entitled "Default," the quantity not delivered shall be required to be delivered as promptly as possible after the cessation of the cause of such failure, and the delivery schedule set forth in this contract shall be amended accordingly.

(g) Failure to agree upon any platinum prices under this clause shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

Subpart B—Clauses for Cost—Reimbursement Type Supply Contract

§ 1007.204–100 Restrictions on printing.

In accordance with the requirements of § 1007.104–100 of this subchapter, insert the clause set forth therein.

§ 1007.204–101 Use of Government facilities on no-charge basis.

In accordance with the requirements of § 1007.104–101 of this subchapter, the clause set forth therein.

§ 1007.204–102 Procurement contracts requiring the provision of additional facilities under separate facilities contracts.

In accordance with the requirements of § 1007.104–102 of this subchapter, insert the clause set forth therein.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Clauses for Construction and Architect—Engineer Contracts

§ 1007.602–9 Material and workmanship.

The following clause will be included in all contracts for construction where it is contemplated that Material Approval Submittals will be required.

PREPARATION OF MATERIAL APPROVAL SUBMITTALS (AUGUST 1967)

The submittals contemplated by the clause herein entitled "Material and Workmanship" shall be accomplished on and in accordance with instructions pertaining to AFPI Form 1 (to be converted to AF Form 3000), Material Approval Submitted.

§ 1007.603–48 Progress charts and requirements for overtime work.

The following clause will be included in all contracts for construction where it is contemplated that Progress Schedules and Reports will be required.

PREPARATION OF PROGRESS SCHEDULES AND REPORTS (AUGUST 1966)

The reports contemplated by the clause herein entitled "Progress Charts and Requirements for Overtime Work" shall be accomplished on and in accordance with instructions pertaining to AFPI Forms 78 (to be converted to AF Form 3064) and 78A (to be converted to AF Form 3065).

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—[Reserved]

Subpart J—[Reserved]

Subpart K—[Reserved]

Subpart L—[Reserved]

Subpart M—[Reserved]

Subpart N—[Reserved]

Subpart O—[Reserved]

Subpart P—Clauses for Food Service Contracts

§ 1007.5000 Scope of subpart.

This subpart sets forth clauses for procuring services by contract for managing, processing, preparing, and serving food for authorized dining halls, and contracts for food service attendants.

§ 1007.5001 General.

This subpart applies to all AF procuring activities. Requirements type contracts according to § 3.409–2 of this title, and this subpart will be established for contractual feeding.

§ 1007.5002 Definitions.

§ 1007.5002–1 Contract for food services.

The term "contract for food services" means any contract for procuring services for managing, processing, preparing, and serving food for an authorized dining hall.

§ 1007.5002–2 Contract for food service attendants.

The term "contract for food service attendants" means any contract for procuring services for preliminary preparation and serving of food, maintaining sanitation of food service facilities, and providing bus boy services.

§ 1007.5003 Required clauses.

§ 1007.5003–1 Scope of work.

(a) Insert the following clause in contracts for food services.

SCOPE OF WORK (DECEMBER 1967)

The Contractor shall furnish food handling service consisting of (1) management and

operation of food handling facilities, kitchens, and dining halls, and (ii) receipt, storage, handling, processing, cooking, packaging, serving and disposal of food at the locations and for the period of time set forth in the Schedule. Except for flight meals or box lunches food will be served cafeteria style with service to include "bus boy" table clearing during meals, and the preparation and serving of short order and snack type meals when required.

(b) Insert the following clause in contracts for food service attendants.

SCOPE OF WORK (JUNE 1960)

The contractor shall provide complete kitchen police service for the dining halls listed in the Schedule, in accordance with the specifications, terms and conditions of this contract.

§ 1007.5003–2 [Reserved]

§ 1007.5003–3 Contractor personnel.

CONTRACTOR PERSONNEL (DECEMBER 1967)

(a) The Contractor shall furnish supervisory, administrative and direct personnel (including cashier and supply personnel) to accomplish all work required.

(b) The Contractor shall furnish personnel who are trustworthy, competent and well qualified for their work. The Contractor shall at Government expense furnish a medical certificate certifying that all employees in kitchen, dining halls and food processing facilities and in any way coming in contact with the handling of food used in carrying out the provisions of this contract are free from any communicable disease. Such personnel shall at all times be subject to inspection and physical examination by Government medical authorities to insure that proper sanitary standards are maintained.

(c) Contractor employees in kitchens, dining halls and food processing facilities shall wear uniforms of suitable type and design as approved by the Contracting Officer and also aprons, caps, and hair nets where appropriate. Such apparel shall be furnished by the Contractor and worn only in a clean and sanitary condition.

(d) The names of all personnel to be employed at the site of work together with such information concerning their history as the Contracting Officer may request, will be furnished to the Contracting Officer prior to commencement of their employment on work under this contract to determine their suitability and qualifications for security approval. No person will be employed at the site of work until after approval by the Contracting Officer. The Government will furnish contractor personnel authorized to work at the site of service such identification as is required by the Government. Such identification will be returned to the Government at the time the person to whom it is issued ceases to be employed at the site of work.

(e) The Contracting Officer may, if he finds it to be in the best interest of the Government, direct the Contractor to remove, and the Contractor shall remove, any employee from assignment to perform services under this contract.

§ 1007.5003–4 Facilities and materials furnished by the government.

FACILITIES AND MATERIALS FURNISHED BY THE GOVERNMENT (DECEMBER 1967)

(a) The Government shall furnish the Contractor for work under this contract the facilities, fixtures and equipment as listed in Exhibit "A." Reasonable office space, but not office supplies and equipment, other than that normally supplied at the operating facilities, will be furnished, if requested by the Contractor. The Government shall furnish all Government forms authorized and directed for use.

(b) The Government shall furnish all foods, subsistence, and packaging materials required for the performance of this contract.

§ 1007.5003–5 Sanitary conditions.

SANITARY CONDITIONS (JUNE 1958)

The Contractor shall maintain all kitchens, dining halls, food processing facilities, garbage and disposal cans, racks and other property used by the Contractor in the performance of this contract in a clean and sanitary condition. Except for the cutting of grass, the Contractor shall be responsible for the proper order and cleanliness of grounds and immediate surroundings of buildings used by it. The use of tobacco and tobacco products by contractor personnel while on duty will be limited to those areas designated by the Government for smoking.

§ 1007.5003–6 Hours of operation.

HOURS OF OPERATION (JUNE 1958)

The Contracting Officer may change the feeding periods, but not the total number of hours, without additional cost to the Government by giving the Contractor notice 24 hours in advance of such change. Should any change result in any greater or less number of hours of operation it will be considered a change within the clause of this contract entitled "Changes." Serving lines will be promptly opened and closed at the times fixed in the Schedule. Sufficient contractor personnel will be present at all times to efficiently and expeditiously render all services required by the contract including, but not limited to, serving, clearing tables, and cleaning up after serving.

§ 1007.5003–7 Record and charge for meals served.

RECORD AND CHARGE FOR MEALS SERVED (DECEMBER 1967)

(a) The Food Service Officer or his representative will insure a meal count is accomplished by the current prescribed method of counting the number of military personnel, contractor personnel, and other authorized personnel to whom meals are served and will furnish a consolidated report of all meals served to the Contractor at the end of each month for use as evidence to support its monthly invoices submitted to the Finance Officer. The Contractor may also maintain a separate meal attendance record. In the event of any discrepancy between the Food Service Officer's consolidated report and the Contractor's meal attendance record, the Contractor may submit the matter to the Contracting Officer for decision pursuant to the clause of this contract entitled "Disputes."

(b) Where prices are to be charged for meals, the Government shall establish the rate of charge thereof. Any cash charged for meals made at the time meals are served will be collected by the Contractor and forwarded to the Food Service Officer or his representative.

(c) Contractor personnel are authorized to purchase their meals during their tenure of duty at the rate established in accordance with paragraph (b) above. The Contractor shall not invoice or be paid for meals served contractor personnel.

§ 1007.5003–8 Manuals, regulations, technical orders, and specifications.

MANUALS, REGULATIONS, TECHNICAL ORDERS, AND SPECIFICATIONS (JUNE 1958)

(a) All manuals, regulations, technical orders, and specifications, including amendments thereto, which are referred to in this contract are incorporated herein by reference. Copies of manuals, regulations, technical orders and specifications, and amendments thereto, referenced in this contract may be obtained from the Contracting Officer upon request.

(b) If directed in writing by the Contracting Officer, any amendment to manuals, regulations, technical orders or specifications or any additional manuals, regulations, technical orders or specifications which supersede, supplement, or are in addition to those referenced in (a) above shall be complied with and followed. If compliance with such amendment, or superseding or additional manuals, regulations, technical orders or specifications directed by the Contracting Officer shall cause a change in the Contractor's cost, it shall be a change within the meaning of the clause of this contract entitled "Changes."

§ 1007.5003–9 Definitions.

Insert the clause in § 7.103–1 of this title, and add the following:

(d) The Food Service Officer, when performing his functions as indicated in this contract, is a representative of the Contracting Officer under (b) above.

§ 1007.5003–10 Changes.

CHANGES (DECEMBER 1967)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes in or additions to specifications, issue additional instructions, required modified or additional work or services within the scope of the contract, and change the place of delivery, method of shipment, or the amount of Government-furnished property. If any such change causes an increase or decrease in the cost of, or in the time required for, the performance of this contract, an equitable adjustment shall be made in the contract price, or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

§ 1007.5003–11 Inspection.

INSPECTION (NOVEMBER 1967)

All services, including the preparation of meals, pastries, bread and rolls, meat cutting, materials, foods, and facilities, fixtures, and equipment used by or under the control of the Contractor shall be subject to inspection and tests by representatives of the Government at all times. The Contractor will immediately remedy all conditions which are found by the Contracting Officer not to be in conformance with the requirements of this contract.

§ 1007.5003–12 Payments.

PAYMENTS (JUNE 1958)

The Contractor shall be paid, upon the submission of invoices of vouchers, the prices stipulated in the Schedule of services performed in accordance with the terms of this contract, less deductions, if any, as herein provided.

§ 1007.5003–13 Assignment of claims.

In accordance with § 7.103–8 of this title, insert the clause set forth therein.

§ 1007.5003–14 Federal, State and local taxes.

In accordance with Part 11, Subpart B of this title, insert the appropriate clause(s) from § 7.103–10 of this title.

§ 1007.5003–15 Default.

Insert the clause set forth in § 7.103–11 of this title.

§ 1007.5003–16 Disputes.

Insert the appropriate clause from § 7.103–12 of this title.

§ 1007.5003–17 [Reserved]

§ 1007.5003–18 Convict labor.

In accordance with Part 12, Subpart B of this title, insert the clause set forth in § 7.104–17 of this title.

§ 1007.5003–19 Contract Work Hours Standards Act—Overtime compensation.

In accordance with Part 12, Subpart C of this title, insert the clause set forth in § 7.103–16 of this title.

§ 1007.5003–20 Equal opportunity.

In accordance with Part 12, Subpart H, of this title, insert the clause set forth in § 7.103–18(a) of this title.

§ 1007.5003–21 Officials not to benefit.

Insert the clause set forth in § 7.103–19 of this title.

§ 1007.5003–22 Covenant against contingent fees.

Insert the clause set forth in § 7.103–20 of this title.

§ 1007.5003–23 Termination for convenience of the Government.

In accordance with Part 8, Subpart G, of this title, insert the appropriate clause from § 7.103–21 of this title.

§ 1007.5003–24 [Reserved]

§ 1007.5003–25 Utilization of small business concerns.

In accordance with § 1.707–3, of this title, insert the applicable clause(s) set forth in § 7.104–14 of this title.

§ 1007.5003–26 Notice to Government of labor disputes.

In accordance with § 7.104–4, of this title, insert the clause set forth therein.

§ 1007.5003–27 Safety and accident prevention.

Insert the clause prescribed by § 1007.-4047 of this subchapter.

§ 1007.5003–28 Gratuities.

Insert the clause set forth in § 7.104–16 of this title.

§ 1007.5003–29 Renegotiation.

Insert the applicable clause from § 7.103–13 of this title.

§ 1007.5003–30 Requirements.

Insert the clause prescribed by § 7.1102–26(b) of this title.

§ 1007.5003–31 Use, conservation, and responsibility for Government property.

To insure that all parties are aware of the contractor's liabilities and duties in connection with Government property, the exhibit A to be attached to each contract will be separately entitled "Fixtures," "Facilities," and "Equipment" listing the items in each group. For this purpose, (i) Facilities will be considered as buildings and nonseverable attachments to the buildings, such as built-in refrigerators, (ii) Fixtures will be large items not easily movable, such as stoves, and (iii) Equipment will be the smaller items such as dishes, silverware, pots, and pans.

USE, CONSERVATION, AND RESPONSIBILITY FOR GOVERNMENT PROPERTY (JUNE 1958)

(a) In the event the Air Force fixtures, facilities and equipment set forth in Attachment A, or replacements for such equipment and facilities made necessary by fair wear and tear of the original facilities and equipment, are not available for use by the Contractor at the time or times required for the performance of the contract, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall equitably adjust the hours of operation or contract price or both and any other contractual provision affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes."

(b) Except for the fixtures and facilities listed in Attachment A, the Contractor, upon delivery to it of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damages thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract. The Contractor shall use due care in the use of Government fixtures and facilities to prevent undue wear and breakage.

(c) Title to all Government-owned fixtures, facilities, and equipment used by the Contractor, and all materials and subsistence issued to the Contractor, shall remain in the Government.

(d) The Food Service Officer shall be responsible for maintaining such records as are necessary in connection with Government fixtures, facilities and equipment made available to the contractor for use.

(e) The Contractor shall be responsible for the proper conservation and use of all food, subsistence and materials issued to it by the Government and, except for normal spoilage and waste for this type of operation, shall be liable for any loss thereof except as such food, subsistence and materials are consumed in the performance of this contract.

(f) The Contractor shall inventory all fixtures, facilities, equipment, subsistence and materials quarterly and furnish the Contracting Officer a certified copy of such inventory.

NOTE: Subparagraph (f) is not to be included in contracts for food service attendants.

§ 1007.5003–32 Insurance.

INSURANCE (JUNE 1958)

The Contractor shall, at its own expense, procure and thereafter maintain the following kinds of insurance with respect to performance under this contract:

(a) Workmen's Compensation insurance, or equivalent workmen's compensation coverage, as required or prescribed by law, with minimum employer liability limit of $100,000 for accidental bodily injury or death, or for occupational disease.

(b) Comprehensive, General Liability, including coverage of food products with minimum limits of $100,000 per person and $300,000 per accident or occurrence, and $10,000 per accident or occurrence for property damage.

§ 1007.5004 Clauses to be used when applicable.

§ 1007.5004–1 Examination of records.

In accordance with the requirements of § 7.104–15, of this title, insert the clause set forth therein.

§ 1007.5004–2 Approval of contract.

Whenever the contract requires manual approval, other than by the contracting officer, prior to becoming effective, insert the clause in § 7.105–2 of this title.

§ 1007.5004–3 Alterations in contract.

According to instructions for use in § 7.105, of this title, insert the clause in § 7.105–1 of this title.

§ 1007.5005 Schedule clauses.

§ 1007.5005–1 Changes in price based on variation from estimate.

To provide for an increase or decrease in the contract price for meals served, depending on a variation from the Government's estimate or the number of meals compared to the meals actually served, the following clause will be inserted in the schedule. The scales of variation in both quantity and price are fixed and are designed to enable a contractor to place his bid on the Government's estimated quantity at a price which will not include a contingency amount because of possible variation from the Government's estimate.

CHANGE IN PRICE BASED ON VARIATION FROM ESTIMATE (OCTOBER 1959)

(a) If the actual number of meals served under this contract to other than Contractor personnel, varies from the number of meals estimated (in accordance with (b) below) to be served during any calendar month, the price paid the Contractor for meals served in that month shall be adjusted in accordance with the following formula:

If actual meals served during month is following percent of estimated meals for month	Prices for meals served will be the following percent of basic contract prices subject to the limitations in column 3	Total payment shall not
70 to 84	112	Exceed 84% est reqmts x 108% basic price.
84 to 92	108	Exceed 92% est reqmts x 104% basic price.
92 to 100	104	Exceed est reqmts x basic price.
100 to 110	94	Be less than est reqmts x basic price.
110 to 120	93	Be less than 110% est reqmts x 94% basic price.
120 to 130	92	Be less than 120% est reqmts x 93% basic price.

(b) Adjustments in price by reason of this clause will be made at the end of each calendar month for the meals served during that

month. The basis for determining the estimated number of meals to be served in a given month will be obtained by dividing the total estimated number of meals for the entire contract period by the total number of days in that period and multiplying the results by the number of days in the month involved.

(c) If the number of meals served in any calendar month (to other than contractor personnel) varies from the estimated requirements for that month by more than 30 percent of such requirements, the Contractor and the Contracting Officer will negotiate an equitable adjustment in the contract price for that month in the manner provided in the Changes clause of this contract.

Subpart Q—Clauses for Contracts for the Rental of Supplies and Equipment

§ 1007.5100 Scope of part.

This subpart contains clauses for use in contracts whereby contractor owned supplies or equipments, not especially designed for the Government, are made available for use by the Government on a fixed price basis.

§ 1007.5101 General instructions.

This subpart will not be construed as the authority to lease property. The authority to lease must otherwise exist.

§ 1007.5102 Cover page.

Use Standard Form 26, Award/Contract, for negotiated contracts.

§ 1007.5103 Schedule provisions.

Contracts under this subpart must as a minimum contain the following provisions in the Schedule, in substantially the following form and covering the subjects indicated.

§ 1007.5103–1 Rented property.

RENTED PROPERTY

The Contractor hereby agrees to rent and deliver to the Government, and the Government agrees to accept the following property pursuant to the provisions of "Condition of Rented Property" clause of this contract.

§ 1007.5103–2 Term.

TERM

The term of this lease shall commence on the_____day of_____19__, and shall end on the _____ day of _____, 19__, unless sooner terminated as herein provided.

§ 1007.5103–3 Delivery and return of property.

DELIVERY AND RETURN OF PROPERTY

(Insert provisions covering date and place of delivery of rented property to the Government and date and place of return of property to the contractor by the Government. Also insert provisions covering the manner in which costs of shipment or movement of property will be met.)

§ 1007.5103–4 Rental.

RENTAL

The Government agrees to pay rent for the property at the rental specified herein. In the case of property rented at a monthly rental rate, the rent shall begin with respect to such property at the beginning of the term of this lease or upon date of delivery of such property to the Government, whichever is later, and shall continue to the date on which this lease expires or is terminated with respect to said property; and rent accruing during the month of delivery of any property and the month of return of any property to the contractor shall be prorated on the basis of a 30-day month. No rent shall accrue with respect to any property furnished by the contractor which the Contracting Officer determines is not a satisfactory quality or in good operating condition, under the terms of the clause entitled "Condition of the Rented Property," unless and until such property is replaced or the defect or defects are corrected. No rent shall accrue with respect to any property during any period when such property is unserviceable or during any period when such property is unusable as a result of the failure of the contractor to render services in connection with operation and maintenance of the equipment as hereinafter required.

§ 1007.5103–5 Services to be rendered by contractor.

SERVICES TO BE RENDERED BY CONTRACTOR

(Insert provisions covering services to be rendered by Contractor in connection with operation, maintenance, etc.)

§ 1007.5103–6 Method of payment.

(If payment is to be made on some basis other than as provided in the payments clause, insert a statement providing the manner in which payment will be made.)

§ 1007.5104 Required clauses.

The following clauses will be inserted in all contracts under this subpart.

§ 1007.5104–1 Definitions.

Insert the clause in § 7.103–1, of this title, adding the following:

(d) The term "rented property" means the property described in the schedule to be made available to and for use by the Government.

§ 1007.5104–2 Payments.

Insert the clause set forth in § 7.103–7, of this title.

§ 1007.5104–3 Assignment of claims.

In accordance with § 7.103–8, of this title, insert the clause set forth therein.

§ 1007.5104–4 Default.

Insert the clause set forth in § 7.103–11, of this title.

§ 1007.5104–5 Disputes.

Insert the appropriate clause from § 7.103–12, of this title.

§ 1007.5104–6 Renegotiation.

Insert the applicable clause from § 7.103–13, of this title.

§ 1007.5104–7 Contract Work Hours Standards Act—overtime compensation.

In accordance with Part 12, Subpart C, of this title, insert the clause set forth in § 7.103–16, of this title.

§ 1007.5104–8 Convict labor.

In accordance with Part 12, Subpart B, of this title, insert the clause set forth in § 7.104–17, of this title.

§ 1007.5104–9 Officials not to benefit.

Insert the clause set forth in § 7.103–19, of this title.

§ 1007.5104–10 Covenant against contingent fees.

Insert the clause set forth in § 7.103–20, of this title.

§ 1007.5104–11 Gratuities.

Insert the clause set forth in § 7.104–16, of this title.

§ 1007.5104–12 Condition of the rental property.

CONDITION OF THE RENTED PROPERTY (MARCH 1963)

The Contractor shall furnish rented property which is of good quality and in first class operating condition, and the Government shall promptly inspect and accept or reject said property. If the Contracting Officer determines that the rented property furnished hereunder is not of satisfactory quality or in good operating condition, the Contractor shall promptly replace same upon receipt of written notice of such determination by the Contracting Officer. If the Contractor fails to replace the rented property in accordance with the determination of the Contracting Officer the Government may: (i) By contract or otherwise replace or correct such property and charge to the Contractor the cost occasioned the Government thereby; or (ii) terminate the contract for default as provided in the clause of this contract entitled "Default."

§ 1007.5104–13 Responsibility for rented property.

RESPONSIBILITY FOR RENTED PROPERTY (MARCH 1963)

Except for reasonable fair wear and tear, the Government agrees to return the rented property in as good condition as when received; provided, however, if the rented property is operated by an employee of the Contractor, the Government shall not be liable for damage to the rented property incident to such operation.

§ 1007.5104–14 Responsibility for damages.

RESPONSIBILITY FOR DAMAGES (MARCH 1963)

The Contractor shall be liable for all damages to property of the Government caused by: (i) The Contractor's providing of defective rented property, (ii) the Contractor's defective maintenance of rented property (when such maintenance is required by this contract), or (iii) the negligent operation of the rented property by the Contractor or its employees and shall hold the Government harmless for all claims for damages and caused to third persons or property of third persons arising out of (i) the Contractor's providing of defective rented property; (ii) the Contractor's defective maintenance of rented property (when such maintenance is required by this contract), or (iii) the negligent operation of the rented property by the contractor or its employees.

§ 1007.5104–15 Termination for convenience of the Government.

In accordance with Part 7, Subpart G, of this title, include the appropriate clause from § 7.103–21, of this title.

§ 1007.5104–16 Buy American Act.

In accordance with § 6.104–5, of this title, insert the clause set forth in § 7.104–3, of this title.

§ 1007.5105 Clauses to be used when applicable.

§ 1007.5105–1 [Reserved]

§ 1007.5105–2 Examination of records.

In accordance with § 7.104–15, of this title, insert the clause set forth therein.

§ 1007.5105–3 Nondiscrimination—equal opportunity.

In accordance with Part 12, Subpart H, of this title, insert the clause set forth in § 7.103–18(a), of this title.

§ 1007.5105–4 Alterations in contract.

Section 7.105–1, of this title.

§ 1007.5105–5 Taxes.

Substitute: "In accordance with Part 11, Subpart D, of this title, insert applicable clause(s) from § 7.103–10," of this title.

§ 1007.5105–6 Approval of contract.

If the contract requires manual approval, other than by the contracting officer, prior to becoming effective, insert the clause in § 7.105–2, of this title.

§ 1007.5105–7 Walsh Healey Act.

In accordance with Part 12, subpart F, of this title, include the clause set forth in § 7.103–17, of this title.

§ 1007.5105–8 Utilization of small business concerns.

In accordance with § 1.707–3, of this title, insert the applicable clause(s) set forth in § 7.104–14, of this title.

§ 1007.5105–9 Utilization of concerns in labor surplus areas.

In accordance with § 1.805–3, insert the applicable clause(s) set forth in § 7.104–20, of this title.

PART 1011—TAXES

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—State and Local Taxes

Sec.

AUTHORITY: The provisions of this Part 1011 issued under 10 U.S.C. Ch. 137, 10 U.S.C. 8012.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—State and Local Taxes

§ 1011.351 Texas sales and use tax—construction contracts.

(a) A construction contractor (or subcontractor) may purchase materials exempt from Texas Limited Sales, Excise and Use Tax if his contract (or subcontract) provides separate amounts applicable to the performance of services and furnishing of the materials.

(b) Instructions for Preparation of Construction Contracts in Texas.

(1) The following statements will be included in Invitations for Bids on fixed price construction contracts to be performed in Texas:

The contract to be awarded will be a construction contract which contains separate amounts applicable to the performance of the services and the furnishing of the materials as defined in Article 20.01(T)(2), Title 122A, Revised Civil Statutes of Texas, and Ruling No. 9, Comptroller of Public Accounts. The bidder awarded the contract, must obtain a Limited Sales, Excise and Use Tax Permit as provided by Texas Law. Exemption from Texas Limited Sales, Excise and Use Tax for materials to be incorporated by the contractor (and his subcontractors) into the structure or improvement of real estate must be secured under the terms of cited law and regulation and bid prices should not include any element for this tax on such materials.

The contract will be awarded to bidders on the basis of the total of the amounts bid applicable to material to be incorporated into the structure or improvement and the amounts applicable to the performance of services and other obligations of the construction contract.

(2) The following will be printed on the bid form (construction):

Materials to be incorporated into the structure or improvement upon real estate	$_____
Service and other obligations of Construction Contract	$_____
Total	$_____

(3) The contract should include the separate amounts and total price bid and an additional general provision as follows:

This contract contains separate amounts applicable to the performance of the services and the furnishing of materials as defined in Article 20.01(T)(2), Title 122A, Revised Civil Statutes of Texas. The contractor has or will obtain a Limited Sales, Excise or Use Tax Permit, as provided by Texas law and regulation.

If the contractor awards any subcontract of $10,000 or more under this contract, such subcontract(s) shall contain separate amounts applicable to the performance of services and the furnishing of materials.

Notwithstanding any other provisions of this contract, the contract price does not include any amount for Texas Limited Sales, Excise or Use Tax on Materials to be incorporated by the Contractor (or subcontractors in compliance with the above) into the structure or improvement of real estate. The Government agrees to furnish the contractor, upon request, appropriate tax exemption certificates. In the event the Contractor is required to bear the burden of excluded tax, by reason of failure to furnish exemption certificates, or otherwise, without fault of the Contractor, the price will be correspondingly increased.

(4) Modifications of such contracts should, where appropriate, similarly indicate separate amounts applicable to such materials and for services and the exclusion of subject tax.

§ 1011.352 Nebraska sales and use tax—construction contracts.

(a) A construction contractor or repairman of tangible personal property (including a subconstract) provides separate amounts applicable to the performance of services and the furnishing of materials. The procedures outlined herein are intended to secure for the Government the benefit of this exemption. Accordingly, these procedures will be followed in effecting fixed-price procurements of construction to be performed in the State of Nebraska. These procedures may also be followed in the fixed-price procurement of repairs to personal property where performance will occur in Nebraska and the contracting officer is satisfied that a significant saving will accrue to the Government.

(b) The following statement will be included in Invitations for Bids or Requests for Proposals:

(1) The contract to be awarded will be a (construction) (repair) contract which separately states amounts applicable to the performance of services and the furnishing of materials as contemplated in section 2(3) of the Nebraska Revenue Act of 1967 and Rule TC–1–17 of the Nebraska State Tax Commission, dated June 1, 1967. Exemption from the Nebraska Sales/Use Tax on materials to be incorporated by the contractor and his subcontractor into the (structure or improvement to real estate) (items to be repaired) may be secured under the terms of the cited law and regulations. Accordingly, bid prices shall not include any amount for this tax on such materials. The person or firm to whom this contract is awarded may execute and deliver a resale certificate to his supplier for such materials.

(2) Bidders shall state below the breakdown of their bid prices according to materials and services:

Materials to be incorporated into the (structure or improvement to real estate) (reparable items)	$_____
Services and other obligations of the Contract	$_____
Total	$_____

As required by the Nebraska tax law and regulations, the amount stated for materials should not be less than the amount paid by the contractor or subcontractor to his supplier.

(3) If in the statement of work or bid schedule bidders are required to state a combined price for labor and material, the breakdown of such prices in accordance with this provision will be for the sole purpose of complying with the Nebraska Revenue Act of 1967 and shall have no other significance.

(c) The Contract Schedule will contain a statement worded substantially as follows:

The contract price of $_____ is comprised of $_____ for material and $_____ for services and other obligations.

The blanks in the foregoing statement are to be filled in with information supplied by the successful bidder prior to contract award, according to the requirements in paragraph (b) of this section.

(d) The resulting contract will also contain the following General Provision:

NEBRASKA SALES AND USE TAX

a. This contract is a (construction) (repair) contract which contains separate

amounts applicable to the performance or services and the furnishing of materials as defined in section 2(3) of the Nebraska Revenue Act of 1967.

b. Notwithstanding any other provisions of this contract, the contract price does not include any amount for Nebraska Sales/Use Tax on materials to be incorporated by the contractor or any subcontractor. The Government agrees to furnish to the contractor, upon request, appropriate tax exemption certificates. In the event the contractor is required to pay or bear the burden of the excluded tax, by reason of failure to furnish exemption certificates, or otherwise, without fault of the contractor, the contract price will be correspondingly increased.

c. If the bids or proposals preceding this contract were initially solicited on a lump-sum basis, the subsequent breakdown of prices according to materials and services will have been for the sole purpose of complying with the Nebraska Revenue Act of 1967 and shall have no other significance.

d. Any subcontracts awarded hereunder shall likewise contain separate amounts applicable to the performance of services and the furnishing of materials.

(e) Modification of such contracts should, where appropriate, similarly indicate separate amounts applicable to materials and services and the exclusion of the tax.

§ 1011.353 New York state sales and use tax—fixed price construction contracts.

(a) A construction contractor may purchase materials free of New York Sales and Use Tax if his contract (or subcontract) is for repair of real property. If sale of the repairs is made to the Government, such sale, including charges for material and labor, would also constitute an exempt transaction. This is in contrast to a capital improvement contract where the contractor is classified as a taxable consumer of the materials used in construction. Use of the clause in paragraph (c) of this section will assure that bidders do not include inapplicable New York sales or use taxes in their bids on fixed price contracts for repair of real property.

(b) Procurement personnel should coordinate with the local staff judge advocate in determining whether a contemplated construction project is for repair or capital improvement of real property. Repairs are usually incidental to continued use of the structure and intended to keep it in an efficient operating condition, while capital improvements materially add to the value of the real property, materially prolong its life, or adapt it to a new and different use.

(c) The following clause will be included in IFB's, RFP's, RFQ's, resultant fixed price contracts for repair projects to be performed in the State of New York:

NEW YORK STATE AND LOCAL SALES AND USE TAXES—REPAIR PROJECT

Work called for by Items _____ of this contract (IFB, RFP, RFQ) is considered to be in the nature of repairs to real property. Since the New York State Sales and Use Tax Law exempts such projects when purchased by the Federal Government (sec. 116(a), New York Sales/Use Tax Law), no sales or use taxes should be paid by the contractor on either materials purchased for incorporation into the project or services rendered in fulfillment thereof. However, the contractor is subject to sales or use taxes on equipment, tools, and supplies rented or purchased for the project but not incorporated therein. The contractor therefore certifies that purchases of the type mentioned in the preceding sentence have been included in the contract price.

If, notwithstanding the foregoing, the contractor is required to pay or bear the burden for New York State and local sales or use taxes on materials incorporated or services rendered in fulfillment of this project, including any interest or penalty incurred thereon, the contract price shall be correspondingly adjusted to cover same: *Provided*, That such taxes, interest or penalty were not incurred through the fault or negligence of the contractor or his failure to follow the instructions of the Contracting Officer. The contract price shall be correspondingly decreased, if following an adjustment under this clause, the contractor obtains a credit, refund or drawback of such taxes, interest or penalty. The contract price shall be similarly decreased if the contractor, through his fault or negligence of failure to follow the instructions of the Contracting Officer does not obtain a refund, credit or drawback of such taxes, interest or penalty. Interest paid or credited to the Contractor incident to a refund of such taxes shall inure to the benefit of the Government to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government for such taxes.

The contractor shall promptly notify the Contracting Officer of any matter which may result in a price adjustment under this clause, and shall take action as directed by the Contracting Officer. The contract price shall be equitably adjusted to cover the costs of such action, including interest, penalties, and reasonable attorneys' fees.

(d) Cost type and time and materials contracts: Under a cost type or time and materials contract, title to direct materials vests in the Government prior to use or consumption by the contractor. The Government's acquisition of title should therefore be treated as an exempt retail sale of such materials, whether or not physically incorporated into the construction. Under such contracts, neither the contractor's purchase of direct materials nor the sale of the construction to the Government, whether in the nature of repairs or capital improvements, would be taxable.

§ 1011.354 Los Angeles city license tax.

(a) *Instructions to contractors.* It is the intention of the military departments to challenge the validity of the Los Angeles City License Tax as it is currently being applied to contractors and subcontractors selling manufactured end items directly or indirectly to the Government under fixed-price contracts and cost-type contracts. Test litigation will soon be instituted to accomplish this purpose. A form letter of instructions, see Instructions to Contractors, has been approved by the Armed Services Tax Group (DOD) for issuance to contractors concerned. The letter sets forth the procedures to be followed by Government contractors and subcontractors in the city of Los Angeles during the pendency of the test litigation. Issuance thereof to affected prime contractors (who should, in turn, instruct affected subcontractors) will be accomplished by cognizant ACO's. Reports received from contractors concerning the Los Angeles Tax (see paragraph 6 of the Instructions to Contractors) will be forwarded to AFLC (MCJCO).

(b) *Special tax clauses.* (1) The special clauses in subparagraphs (3) and (4) of this paragraph are intended for use in all contracts containing an ASPR tax clause (usually fixed-price or time and materials contracts), the performance of which will be accomplished either wholly or partially in the city of Los Angeles, Calif. A special clause will be inserted in contracts for services as well as supply contracts since the Los Angeles tax, measured by gross receipts of the preceding year, is normally allocated and charged through overhead to all contracts of the current year. Thus, a subsequent reduction in the amount of license taxes for a given year is likely to be reflected as a general reduction in overhead for all contracts which shared the original cost or burden for such taxes.

(2) Provision will be made in IFB's, RFP's, and RFQ's to allow for the incorporation of a special tax clause in resultant contracts where appropriate. Existing contracts need not be amended to incorporate such a clause, except where new work is added.

(3) The following provision will be inserted in affected contracts containing the tax clause in § 11.401–1 of this title.

LOS ANGELES CITY LICENSE TAXES

Notwithstanding any other provisions of this contract:

(a) The contract price includes allocable Los Angeles City License taxes, including those taxes (hereinafter referred to as "additional taxes") resulting from the application of principles expressed by the Los Angeles City Attorney in his opinion dated March 2, 1960. If, after the contract date, the contractor is not required to pay or bear the burden, or obtains a credit or refund of all or a portion of said taxes from the city of Los Angeles, the contract price shall be decreased by the amount of such relief or refund allocable to this contract, or that amount shall be paid to the Government, as the Contracting Officer directs. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or failure to follow instructions of the Contracting Officer as provided in (b) below, is required to pay or bear the burden or does not obtain a refund of any such taxes. Interest paid or credited to the Contractor incident to a refund of these taxes shall insure to the benefit of the Government to the extent that such interest was earned after the Contractor was paid or reimbursed by the Government for these taxes.

(b) The Contractor shall comply with the instructions of the Contracting Officer in order to obtain a reduction, credit or refund of Los Angeles City License Taxes, and the contract price shall be equitably adjusted to cover the costs of such compliance, including reasonable attorneys' fees arising therefrom.

(c) The Contractor shall maintain accurate records showing the amount of Los Angeles License Taxes, and specifically the amount of additional taxes, included in the contract price.

(4) The following provision will be inserted in affected contracts containing the tax clause in § 11.401–2 of this title.

LOS ANGELES CITY LICENSE TAXES

Notwithstanding any other provisions of this contract:

(a) The contract price includes allocable Los Angeles City License Taxes, including those taxes (hereinafter referred to as "additional taxes") resulting from the application of principles expressed by the Los Angeles City Attorney in his opinion dated March 2, 1960. If, after the contract date, the Contractor is not required to pay or bear the burden, or obtains a credit or refund of all or a portion of said taxes from the city of Los Angeles, the contract price shall also be adjusted in accordance with the clause hereof entitled "Federal,, State, and Local Taxes." As provided in said clause, the contract price shall also be adjusted if the Contractor, through his fault or negligence or failure to follow the instructions of the Contracting Officer, is required to pay or bear the burden or does not obtain a refund of such taxes.

(b) The Contractor shall maintain accurate records showing the amount of Los Angeles License Taxes, and specifically the amount of additional taxes, included in the contract price.

§ 1011.354–1 Cost-type contracts.

Los Angeles City license taxes which are properly paid in accordance with the government's instructions are, to the extent allocable, reimbursable under the cost principles of Part 15, Subchapter A, Chapter I of this title. Special tax clauses are not required for cost-type contracts.

STATE AND LOCAL TAXES

INSTRUCTIONS TO CONTRACTORS LOS ANGELES CITY LICENSE TAX

(a) In an opinion dated March 2, 1960, regarding license taxes asserted to be due on Northrop Corp.'s activities under contracts with the Federal Government, the Los Angeles City Attorney concluded that:

(1) Gross receipts derived from Government supply contracts, entered into on a CPFF or fixed-price with progress payment basis, are taxable in part at the rates provided in Los Angeles Municipal Code, section 21.167 ("Manufacture and Sale of Goods, Wares or Merchandise at Retail"), and in part at the rates provided in Los Angeles Municipal Code, section 21.190 ("Occupational and Professional License (Not Otherwise Specifically Licensed)").

(a) Gross receipts derived from sales of articles to the Government pursuant to contracts which require shipment of said articles on Government bills of lading to destinations outside the State of California are not exempt from the computation of the license tax by reason of Los Angeles Municipal Code, section 21.168–1 ("Exclusion from Gross Receipts").

(b) As you may previously have been advised, it is the intention of the military departments to challenge the legal validity of the above conclusions of the Los Angeles City Attorney, as made applicable to contractors and subcontractors selling manufactured and items directly or indirectly to the Government under fixed-price contracts and cost-type contracts. Arrangements are presently being made for a consolidated test case with ITT Gilfillan, Inc., and Hoffman Electronics Corp. serving as colitigants. Insofar as possible, all other claims for refund involving Government supply contractors and subcontractors should be held in abeyance pending results of the test litigation.

(c) Contractors who have not already made payment of license taxes imposed by Los Angeles Municipal Code, sections 61.166, 21.167, and 21.190, as construed in the aforementioned City Attorney opinion, for the years 1963 and 1964 should do so in accordance with the demands of the city. However, the payment of additional license taxes resulting from the application of principles expressed in the City Attorney's opinion is not to be construed as acquiescence in said opinion, and rights to effect refunds of such additional taxes should be timely preserved. This same procedure will be followed, at the appropriate times, with respect to license taxes becoming due in future years, until you are otherwise advised.

(d) Contractors who have withheld payment of such license taxes allegedly due for years prior to 1968, are hereby instructed immediately to pay the same in order to prevent the accrual of further interest and penalties. As in the case of license taxes for 1963 and subsequent years, rights to effect refunds thereof should be timely preserved.

(e) Payments made in accordance with these instructions should be accompanied by the following written statement:

Payment of additional taxes resulting from the application of principles expressed by the Los Angeles City Attorney in his opinion dated March 2, 1960 is being made solely for the purpose of avoiding the accrual of further interest and penalties and is not to be construed as acquiescence by (name of contractor) in the legality of the city's demands for such payment. It is contemplated that (name of contractor) will eventually claim a refund of such amounts herein paid to the city of Los Angeles, in accordance with the administrative and judicial procedures set forth in applicable portions of the Los Angeles and California codes.

(f) Additional amounts of license taxes paid to the city of Los Angeles pursuant to these instructions should be currently reported to the Contracting Officer. In addition, the Contracting Officer should be advised, in pertinent detail, of any claim for refund which it becomes necessary to file in order to prevent expiration of statutory periods of limitation. (NOTE: In the case of California Cigarette Concessions, Inc. v. City of Los Angeles, 53 Cal. 2d 865, 350 P. 2d 715, it was considered that the 2-year statute of limitations established by Section 339, Subdivision 1, Cal. Code of Civil Procedure, applies to claims for refund of Los Angeles City License Taxes.)

(g) These instructions relate only to Los Angeles, 53 Cal. 2d 865, 350 P. 2d 715, it was of which will inure to the benefit of the Government pursuant to the terms of Government contracts. Similar instructions should be issued to affected subcontractors who are located in the city of Los Angeles.

PART 1012—LABOR

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Walsh-Healey Public Contracts Act

Sec.

1012.604 Responsibilities of contracting officers.

AUTHORITY: The provisions of this Part 1012 issued under 10 U.S.C. Ch. 137, 10 U.S.C. 8012.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Walsh-Healey Public Contracts Act

§ 1012.604 Responsibilities of contracting officers.

The contracting officer is also responsible for:

(a) Advising prospective contractors of possible applicable minimum wage determinations, by giving written or verbal information about such determinations in advance of or coincident with negotiated procurements, and by including the following provision in invitations for bids in the case of formally advertised procurements:

LABOR INFORMATION

Attention is invited to the possibility that wage determinations may have been made under the Walsh-Healey Public Contracts Act providing minimum wages for employees engaged in the manufacture for sale to the Government of the supplies covered by this Invitation for Bids. Information in this connection, as well as general information as to the requirements of the Act concerning overtime payment, child labor, safety and health provisions, etc., may be obtained from the Wage and Hour and Public Contracts Division, Department of Labor, Washington, D.C. 20210. Requests for information should state the Invitation number, the issuing agency and the supplies covered.

(b) Submitting report of any violations of representations or stipulations required by the Walsh-Healey Public Contracts Act to Hq USAF (AFSPPMA) through the Staff Judge Advocate, Hq AFSC, for transmittal to the Department of Labor.

PART 1016—PROCUREMENT FORMS

Subparts A–B–C–D–E–F–G—[Reserved]

Subpart H—Miscellaneous Forms

§ 1016.812 Release and assignment forms.

When the forms in paragraph (d) of § 16.812 of this title titled "Contractor's Assignment of Refunds, Rebates, Credit and other Amounts," are to be executed by contractors located in California or who have claims for refund of California taxes, the following parenthetical sentence will be added at the end of paragraph 1 of the form directly following the word "thereunder" (except those for refunds, rebates, or credits for taxes paid in the State of California or any political subdivision thereof), and in addition, the following paragraph 4 will be added to the form contained in paragraph (d) of § 16.812 of this title "In the event the contractor obtains or receives any refund, rebate, or credit for taxes paid to the State of California or any political subdivision thereof, in connection with the performance of this contract and for which the Contractor is

paid or reimbursed by the Government, the Contractor agrees to pay over to the Government an amount equal to such refund or credit (including interest paid or credited to the Contractor incident to such refund or credit to the extent such interest was earned after the Contractor was paid or reimbursed by the Government for such taxes). In the event the Contractor receives any benefit in lieu of or in addition to such refund, rebate, or credit, the Contractor agrees to pay over to the Government an amount equal to such benefit."

PART 1017—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart A—[Reserved]

Subpart B—Request for Contractual Adjustment

Sec.
1017.203 Authority of other officers and officials.

Subpart C—Residual Powers

1017.301 Delegations of authority.

AUTHORITY: The provisions of this Part 1017 issued under 10 U.S.C. Ch. 137, 10 U.S.C. 8012.

Subpart A—[Reserved]

Subpart B—Request for Contractual Adjustment

§ 1017.203 Authority of other officer and officials.

The delegated authority as listed in § 17.203(b) of this title has been redelegated. All requests for contractual adjustment will be transmitted for appropriate action to Air Force Logistics Command (MCPKA).

Subpart C—Residual Powers

§ 1017.301 Delegation of authority.

Authority to make or approve contracts for sales of Government property, subject to the standards specified in § 1017.302 of this part has been delegated to the Deputy Chief of Staff, Systems and Logistics and, while he is so acting, to the person acting for the time being as Deputy Chief of Staff, Systems and Logistics, and has been redelegated to the Director, Procurement Policy, Deputy Chief of Staff, Systems and Logistics.

PART 1018—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—[Reserved]

Subpart G—Labor Standards for Contracts Involving Construction

Sec.
1018.704 Administration and enforcement.
1018.704–1 Policy.

AUTHORITY: This Part 1018 issued under 10 U.S.C. Ch. 137 and 10 U.S.C. 8012.

Subparts A–B–C–D–E–F—[Reserved]

Subpart G—Labor Standards for Contracts Involving Construction

§ 1018.704 Administration and enforcement.

§ 1018.704–1 Policy.

(a) *Davis-Bacon Act.* (1) All mechanics and laborers (those workers and working foremen who work predominantly with their hands or with tools and equipment, whether employed by a prime contractor or by a subcontrator) employed or working directly upon the site of the work will be paid not less than once a week. Each worker will be paid not less than the hourly rate shown on his classification in the wage determination.

(2) Fringe benefits payments will be paid in the amount specified in the wage determination. They may be paid by making payments in cash or by making payment to a fund, plan or program.

(3) Whenever any laborer or mechanic is to be employed in a classification not listed in the wage determination, you are required to submit a statement of the proposed additional classification and minimum wage rate, including fringe benefit payments, if any, to the contracting officer for approval. Upon approval the additional classification and rate shall be posted with the wage determination at the jobsite.

(4) Violation of any part of this Act may result in the termination of your right to proceed with the work.

(b) *Contract Work Hours Standards Act—Overtime Compensation.* (1) Any laborer or mechanic doing any part of the work contemplated by this contract who is required or permitted to work more than 8 hours in any 1 calendar day or 40 hours in any week, whichever is the greater number of overtime hours, shall be compensated for such overtime hours at a rate not less than one and one-half times his basic hourly rate of pay.

(2) Violations of the provisions of this Act will result in your being liable to the affected employee for any amounts due, and to the United States for liquidated damages in the amount of $10 for each calendar day each employee is permitted to work in violation of the Act.

(c) *Copeland ("Anti-Kickback") Act.* (1) No laborer or mechanic will be forced, intimidated, threatened by dismissal from employment, or induced by any other manner to give up any part of the compensation to which he is entitled.

(2) Violation of this Act could result in the violator being fined not more than $5,000 or imprisoned not more than 5 years, or both.

(d) *Apprentices.* (1) Apprentices will be permitted to work as such only when they are registered, individually, under an apprenticeship program recognized by or registered with the U.S. Department of Labor.

(2) Prior to using any apprentices on the work required by this contract, you are required to furnish written evidence of their registration as well as the ratio allowed and the wage rate required to be paid.

(e) *Payrolls and basic records.* (1) You are required to maintain during the course of work and for a period of 3 years thereafter all payrolls and basic records for all laborers and mechanics working on this contract.

(2) You are required to submit one copy of all payrolls to this office. You are responsible for the submission of payrolls for your subcontractors. Each payroll will be submitted as an attachment to a Weekly Statement of Compliance form that will be furnished by this office. Each payroll will contain the name and address, the correct classification, rate of pay including fringe benefits payments, daily and weekly number of hours worked, deductions made and actual wages paid for each laborer and mechanic employed or working directly upon the site of work.

(3) These records will be made available for inspection by authorized representatives of the Contracting Officer and the Department of Labor. You are also required to permit these representatives to interview your employees during working hours on the job.

(f) *Equal employment opportunity.* In connection with the performance of work under this contract, discrimination against any employee or applicant for employment because of race, religion, color, or national origin is prohibited. The aforesaid provision shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Posters regarding the above will be supplied to you under separate letter. Such posters must be posted in conspicuous places at the job site, available to employees and applicants for employment.

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70–3339; Filed, Mar. 19, 1970; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

Closing Dates

Section 170.14(a) is hereby amended to permit the establishment of closing

dates later than February 15 in cases where the Commissioner determines unusual circumstances so warrant. As so amended, § 170.14(a) reads as follows:

§ 170.14 Submission and processing of Title I applications.

(a) *Closing dates for filing of applications.* Closing dates by which applications may be filed and accepted by the State Commission shall be established in the State plan. For each category of applications (i.e., applications for public community colleges and public technical institutes and applications for institutions of higher education other than public community colleges and public technical institutes) the State plan shall provide at least two closing dates for any Federal fiscal year, and all such closing dates shall be between July 31 and February 15: *Provided, however,* That where the Commissioner determines unusual circumstances so warrant, the State plan may provide for a closing date after February 15.

* * * * *

(Sec. 108, 77 Stat. 369; 20 U.S.C. 718)

Dated: March 3, 1970.

JAMES E. ALLEN, Jr.,
U.S. Commissioner of Education.

Approved: March 13, 1970.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 70-3383; Filed, Mar. 19, 1970; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10194]

BRITISH AIRCRAFT CORPORATION MODEL BAC 1–11 200 AND 400 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to British Aircraft Corporation Model BAC 1–11 200 and 400 series airplanes. There have been reports of failure of the compressor in the air-conditioning system cold air unit (CAU) on CAU's not having BAC Modification PM3791. The reports indicated that these failures resulted in compressor wheel shroud fragments penetrating the scrolls. This could result in damage to the center fuel tank and to other airplane systems. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require installation of a containment guard on BAC 1–11 200 and 400 series airplane CAU's which have not had BAC Modification PM3791 incorporated.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before April 20, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1948 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1–11 200 and 400 series airplanes which do not have BAC Modification PM3791 (or Normalair Modification No. 271 TC) incorporated.

To prevent penetration of compressor wheel shroud fragments through the air conditioning system cold air unit compressor scrolls in the event of compressor failure, within the next 1200 hours' time in service after the effective date of this AD, unless already accomplished, install containment guards on the cold air units P/N 12–525350 (R.H.) and P/N 13–525350 (L.H.) in accordance with Normalair—Garrett, Ltd., Service Bulletin No. 21–314 dated August 18, 1969, or later ARB-approved issue, or an FAA-approved equivalent. (British Aircraft Corp. Model BAC 1–11 Service Bulletin No. 21–PM4350 refers to this subject.)

Issued in Washington, D.C., on March 13, 1970.

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

[F.R. Doc. 70–3359; Filed, Mar. 19, 1970; 8:47 a.m.]

[14 CFR Part 65]

[Docket No. 10193; Notice 70–12]

AIR TRAFFIC CONTROL TOWER OPERATORS

Proposed Establishment of Facility Rating

The Federal Aviation Administration is considering amending Part 65 of the Federal Aviation Regulations to: (1) Establish a "facility rating" that may be obtained by a certificated air traffic control tower operator who qualifies at all operating positions at a particular control tower; (2) provide that a certificated operator without that rating may control traffic at those operating positions for which he has qualified at a particular control tower, under the supervision of an operator holding a facility rating for that tower; and (3) drop the present junior and senior ratings.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before April 20, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons.

Under Part 65, the FAA now issues junior and senior ratings to holders of air traffic control tower operator certificates. Ratings are issued for specific control towers, and a rating for one control tower does not authorize an operator to act at another control tower. Practical tests on specified procedures are given for each rating. An operator with either a junior or senior rating may control traffic under VFR weather conditions. However, under § 65.41, an operator with a senior rating must supervise the controlling of all air traffic under IFR weather conditions, and during VFR conditions when the volume of air traffic, the type and equipment of the aircraft using the airport, or its air navigation aids warrant.

Thus, the present regulatory system differentiates between junior and senior-rated controllers on the basis of control of air traffic under IFR weather conditions and the other stated conditions, so far as performance of duties is concerned. However, the procedures for training operators in FAA control towers, in practice, seek to establish a controller's competence to control all traffic, both VFR and IFR, encountered at each operating position. The degree of supervision a junior controller must receive from the senior controller, when required under § 65.41, varies according to the demonstrated competence of that junior controller.

It is now considered that a regulatory system in which controllers fully qualify for each operating position, and then function accordingly, will better utilize their services. This will make unnecessary the present regulatory provisions for supervision now required under § 65.41, since upon completion of the transition to the proposed system the operator will perform all functions, whether during IFR or VFR weather conditions, of each operating position for which he has qualified, under general supervision only.

It is therefore proposed to change the rating structure from qualification according to the weather and traffic encountered, to qualification by operating position, and to issue a "facility rating" when the applicant has qualified for all operating positions at a particular control tower. For years the FAA has issued only facility ratings to air traffic control specialists (other than air traffic control tower operators) to indicate proficiency at a particular facility. The proposed revision would not substantively change the present training or actual operating procedures, but it would more accurately conform the regulations with these procedures. Also, it would reduce the administrative workload by eliminating the issuance of a junior rating.

In converting to a facility rating system, each holder of a junior rating would be required to meet the applicable skill requirements of proposed § 65.37 after adoption of an amendment pursuant to this notice, in order to continue to act as a controller. This would be necessary in order to assure that a controller presently holding a junior rating would be qualified to control air traffic under IFR, as well as VFR weather conditions, if he has not done so previously. Until he has qualified for the operating position to which he is assigned, he would be subject to the same rules as to supervision that are presently in force. The new rules would have no effect upon the privileges of a senior rating, and each holder of a senior rating would be allowed to exchange that rating for a facility rating. However, he would be required to make the exchange, after one year, in order to exercise the applicable privileges.

To implement the new system, the practical tests would be provided for in proposed § 65.37, in which paragraphs (a) through (e) would prescribe the basic skill requirements that an operator must initially show to qualify for any operating position (as defined in proposed § 65.31) to which he is assigned in the control tower. Since facilities and their environments vary, the additional items for qualification for operating positions would be listed in proposed § 65.37(f), from which the examiner would select particular items as applicable to the particular operating position. This procedure would allow the examiner flexibility, and it would place reliance upon his experience and good judgment to require the applicant to perform the procedures and duties considered necessary to show his skill under the circumstances and to dispense with unnecessary and inapplicable items.

A current record of the operating positions for which each operator has qualified would be maintained in the control tower.

All other changes proposed in Subpart B would be made to combine or conform the regulations to the system proposed and the single facility rating concept.

In consideration of the foregoing, it is proposed to amend Subpart B of Part 65 of the Federal Aviation Regulations to read as follows:

Subpart B—Air Traffic Control Tower Operators

§ 65.31 Required certificate, and rating or qualification.

No person may act as an air traffic control tower operator at an air traffic control tower in connection with civil aircraft unless he—

(a) Holds an air traffic control tower operator certificate issued to him under this subpart; and

(b) Holds a facility rating for that control tower issued to him under this subpart, or has qualified for the operating position at which he acts and is under the supervision of the holder of a facility rating for that control tower.

For the purpose of this subpart, "operating position" means an air traffic control function performed within or directly associated with the control tower.

§ 65.33 Eligibility requirements: general.

To be eligible for an air traffic control tower operator certificate a person must—

(a) Be at least 18 years of age;

(b) Be of good moral character;

(c) Be able to read, write, and understand the English language and speak it without accent or impediment of speech that would interfere with two-way radio conversation;

(d) Hold at least a second-class medical certificate issued under Part 67 of this chapter within the 12 months before the date he applies; and

(e) Comply with § 65.35.

§ 65.35 Knowledge requirements.

Each applicant for an air traffic control tower operator certificate must pass a written test on—

(a) The flight rules in Part 91 of this chapter;

(b) Airport traffic control procedures, and this subpart;

(c) En route traffic control procedures;

(d) Communications operating procedures;

(e) Flight assistance service;

(f) Air navigation, and aids to air navigation; and

(g) Aviation weather.

§ 65.37 Skill requirements: operating positions.

No person may act as an air traffic control tower operator at any operating position unless he has passed a practical test on—

(a) Control tower equipment and its use;

(b) Weather reporting procedures and use of reports;

(c) Notices to Airmen, and use of the Airman's Information Manual;

(d) Use of operational forms;

(e) Performance of noncontrol operational duties; and

(f) Each of the following procedures that is applicable to that operating position and is required by the person examining him:

(1) The airport, including rules, equipment, runways, taxiways, and obstructions.

(2) The control zone, including terrain features, visual checkpoints, and obstructions.

(3) Traffic patterns and associated procedures for use of preferential runways and noise abatement.

(4) Operational agreements.

(5) The center, alternate airports, and those airways, routes, reporting points, and air navigation aids used for terminal air traffic control.

(6) Search and rescue procedures.

(7) Terminal air traffic control procedures and phraseology.

(8) Holding procedures, prescribed instrument approach, and departure procedures.

(9) Radar alignment and technical operation.

(10) The application of the prescribed radar and nonradar separation standard, as appropriate.

§ 65.39 Practical experience requirements: facility rating.

Each applicant for a facility rating at any air traffic control tower must have satisfactorily served—

(a) As an air traffic control tower operator at that control tower without a facility rating for at least 6 months; or

(b) As an air traffic control tower operator with a facility rating at a different control tower for at least 6 months of the 2 years before the date he applies for the rating.

§ 65.41 Skill requirements: facility ratings.

Each applicant for a facility rating at an air traffic control tower must have passed a practical test on each item listed in § 65.37 of this part that is applicable to each operating position at the control tower at which the rating is sought.

§ 65.43 Rating privileges and exchange.

(a) The holder of a senior rating on (effective date of amendment) may at any time after that date exchange his rating for a facility rating at the same air traffic control tower. However, if he does not do so before (1 year after effective date of amendment), he may not thereafter exercise the privileges of his senior rating at the control tower concerned until he makes the exchange.

(b) The holder of a junior rating on (effective date of amendment) may not control air traffic, at any operating position at the control tower concerned, until he has met the applicable requirements of § 65.37 of this part. However, before meeting those requirements he may control air traffic under the supervision, where required, of an operator with a senior rating (or facility rating) in accordance with § 65.41 of this part in effect before (effective date of amendment).

§ 65.45 Performance of duties.

(a) An air traffic control tower operator shall perform his duties in accordance with the limitations on his certificate and the procedures and practices prescribed in air traffic control manuals of the FAA, to provide for the safe, orderly, and expeditious flow of air traffic.

(b) An operator with a facility rating may control traffic at any operating position at the control tower at which he holds a facility rating. However, he may not issue air traffic clearance for IFR flight without authorization from the appropriate air route traffic control center.

(c) An operator who does not hold a facility rating for a particular control tower may act at each operating position for which he has qualified, under the

supervision of an operator holding a facility rating for that control tower.

§ 65.47 Maximum hours.

Except in an emergency, a certificated air traffic control tower operator must be relieved of all duties for at least 24 consecutive hours at least once during each 7 consecutive days. Such an operator may not serve or be required to serve—

(a) For more than 10 consecutive hours; or

(b) For more than 10 hours during a period of 24 consecutive hours, unless he has had a rest period of at least 8 hours at or before the end of the 10 hours of duty.

§ 65.49 General operating rules.

(a) No person may act as an air traffic control tower operator under a certificate issued to him under this part unless he has in his personal possession an appropriate current medical certificate issued under Part 67 of this chapter.

(b) Each person holding an air traffic control tower operator certificate shall keep it readily available when performing duties in an air traffic control tower, and shall present that certificate or his medical certificate or both for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

(c) A certificated air traffic control tower operator who does not hold a facility rating for a particular control tower may not act at any operating position at the control tower concerned unless there is maintained at that control tower, readily available to persons named in paragraph (b), a current record of the operating positions at which he has qualified.

(d) An air traffic control tower operator may not perform duties under his certificate during any period of known physical deficiency that would make him unable to meet the physical requirements for his current medical certificate. However, if the deficiency is temporary, he may perform duties that are not affected by it whenever another certificated and qualified operator is present and on duty.

(e) A certificated air traffic control tower operator may not control air traffic with equipment that the Administrator has found to be inadequate.

(f) The holder of an air traffic control tower operator certificate, or an applicant for one, shall, upon the reasonable request of the Administrator, cooperate fully in any test that is made of him.

§ 65.50 Currency requirements.

The holder of an air traffic control tower operator certificate may not perform any duties under that certificate unless—

(a) He has served for at least 3 of the preceding 6 months as an air traffic control tower operator at the control tower to which his facility rating applies, or at the operating positions for which he has qualified; or

(b) He has shown that he meets the requirements for his certificate and facility rating at the control tower concerned, or for operating at positions for which he has previously qualified.

These amendments are proposed under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 13, 1970.

FERRIS J. HOWLAND,
Acting Director,
Air Traffic Service.

[F.R. Doc. 70-3357; Filed, Mar. 19, 1970; 8:46 a.m.]

[14 CFR Part 151]

[Docket No. 10196; Notice 70-13]

PROJECTS UNDER FEDERAL-AID AIRPORT PROGRAM

Proposed Inclusion of Airport Beacons

The Federal Aviation Administration is considering amending Part 151 of the Federal Aviation Regulations to require the sponsor of any project under the Federal-Aid Airport Program that includes installing lighting facilities, to provide for installing an approved airport beacon if one is not already installed on the airport.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before April 20, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Formerly, the sponsor of a project under the Federal-Aid Airport Program was required by § 151.87(b) to apply for a "True Light Certificate," and an airport project eligible for runway lighting was eligible for an airport beacon as a component of basic airport lighting. When the issuance of "True Light Certificates" was discontinued by Amendment 151-24, issued August 28, 1968 (33 F.R. 12544; September 5, 1968), the provision covering airport beacons at lighted airports also was discontinued.

The FAA has determined, through a survey of many airport operators and the concerned military departments, as confirmed by an FAA study, that airport beacons provide a valuable contribution to safety as a visual means of identifying an airport location, particularly during the normal facility operating periods from sunset to sunrise. Nonvisual electronic navigation aids are utilized extensively in locating an airport. However, during VFR conditions airport beacons are relied upon to provide a quick visual airport location reference even for the most experienced pilots, as well as for the less experienced pilots, who depend heavily on visual references as an aid to aircraft navigation.

The International Civil Aviation Organization has established a standard for aerodrome beacons, specifying that a beacon should be visible and recognizable at night from a range of at least 5 nautical miles between the altitudes of 1,000 and 5,000 feet in a restricted visibility of 3 miles, and should be visible at as great a range as possible at altitudes above 5,000 feet.

In conformity therewith, the FAA has issued an Advisory Circular, AC-170/6850-1 dated August 28, 1968, "Aeronautical Beacons and True Lights," that provides the FAA standard for installing and operating aeronautical beacons, including airport beacons serving as true lights. This Advisory Circular states that an airport beacon should produce a distinctive signal and be so located that it clearly indicates the airport its characteristic identifies; that its basic signal should present alternate white and green flashes at a lighted land airport, and alternate white and yellow flashes at a lighted water airport (white flash double peaked at military airports in either case); that the flashing rate should be 12 to 15 per minute; and that the effective intensity of the flash of the beacon should be that computed from a stated relation. This Advisory Circular also states that a beacon should generally be located not closer than 350 feet, for an airport having a maximum runway length of 3,200 feet, or 750 feet for a runway exceeding that length, from the centerline (or centerline extended) of the nearest runway, but not more than 5,000 feet from the nearest point of the usable landing area. The Advisory Circular contains, in detail, technical specifications satisfying the ICAO standard for beam intensity, and provides additional guidelines for locating and operating a beacon.

Advisory Circular 150/5345-38, dated March 3, 1967, identifies two types of rotating airport beacons currently recommended for installation, the 36-inch and the L-801 beacons, and it provides criteria for the selection thereof for a particular airport.

The 36-inch rotating double-ended beacon consists of two coaxial doublet lens systems with a light source at their common focus, and conforms with Specification CAA-291, issued by the Civil Aeronautics Administration July 31, 1944. This type is recommended for installation at airports having high-intensity runway lighting. Copies of Specification CAA-291 may be obtained on request from Airports Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590.

The L–801 beacon, comprising a light-duty, double-ended light projector and optical system, may include either a single lamp at a common focus or two separate optical systems each with its own lamp or lamps. This unit automatically changes the lamp or lamps upon the failure of the first lamp, and conforms with the specifications in Advisory Circular AC–150/5345–12A dated May 12, 1967. This type is recommended for installation on airports having medium-intensity runway lighting, unless special conditions at a particular location, such as high background brightness caused by neighboring lights or the need for a navigational aid, would justify the installation of the 36-inch beacon.

It is anticipated that an Advisory Circular providing the specifications for the 36-inch beacon presently contained in Specification CAA–291 will be published by the FAA. It is further anticipated that upon publication of a final rule pursuant to this notice the new Advisory Circular, together with Advisory Circulars AC–150/5345–12A (supplanting AC–150/5345–12), AC–150/5345–38, and AC–170/6850–1, will be added to appendix I of this part (which sets forth the list of Advisory Circulars providing technical guidelines made mandatory under § 151.72). Comments on these contemplated mandatory technical guidelines for airport beacons may be submitted with comments on the proposed rule.

In consideration of the foregoing, it is proposed to amend subparagraphs (b) (2), (3), and (4) of § 151.86 of Part 151 of the Federal Aviation Regulations to read as follows:

§ 151.86 Lighting and electrical work: general.

* * * * *

(b) * * *

(2) Provide in the project for installing an approved airport beacon if one is not already installed;

(3) Acknowledge its awareness of the cost of operating and maintaining airport lighting; and

(4) Agree to operate the airport lighting installed—

(i) Throughout each night of the year; or

(ii) According to a satisfactory plan of operation, submitted under paragraph (c) of this section.

* * * * *

This amendment is proposed under the authority of the Federal Airport Act (49 U.S.C. 1101–1120), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and section 1.4(b) of the Regulations of the Office of the Secretary of Transportation.

Issued in Washington, D.C., on March 11, 1970.

CLYDE W. PACE, JR.,
Acting Director,
Airports Service.

[F.R. Doc. 70–3358; Filed, Mar. 19, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 81]

POULTRY INSPECTION

Inspection of Poultry and Poultry Products

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority contained in the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 et. seq.), the Consumer and Marketing Service proposes to amend § 81.50 of the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR Part 81), to provide for the use of testing methods to determine moisture absorption in poultry so as to assure compliance with moisture limitations, and further to update present moisture tolerances for turkeys.

Statement of Considerations. The Consumer and Marketing Service of the Department of Agriculture is responsible for administering the Poultry Products Inspection Act so as to assure that poultry products prepared under inspection pursuant to the Act are fit for human food and not adulterated. This responsibility requires that studies of inspection procedures and requirements be conducted periodically to determine if this objective is being met and the consumer is receiving adequate protection.

In order to prevent incubation and rapid growth of bacteria on or within poultry carcasses, body heat should be promptly removed from slaughtered poultry. Most food poisoning bacteria have not been reported capable of growth at temperatures below 40° F. Thus, chilling requirements are designed to reduce the internal temperature of poultry to 40° F. or lower to preclude growth of food poisoning bacteria. This is accomplished through washing and immediate chilling of the carcasses. During these stages, some moisture absorption is inevitable. Realizing the need for controls, the Department collected a substantial amount of data and established tolerances based on absorbed water that was deemed unavoidable. Moisture control in poultry is designed to allow the processor to deep chill, preserve wholesomeness, and extend shelf life of the product. All moisture absorbed above the allowed tolerances is unnecessary and, therefore, considered adulteration. As chilling equipment and techniques become more mechanized, and with more flexibility desired by industry, changes in control methods are necessary to reduce the possibility that poultry may contain excessive amounts of moisture.

Present moisture limitations are administered by Federal moisture controllers responsible for establishing systems of washing, chilling, and draining in each plant. These systems cannot be changed without prior approval and a return visit by a moisture controller. Corrective action is based on the controller's tests and the resident inspectors' surveillance of the established system. This method does not provide flexibility in chilling systems, nor does it take into consideration differences of individual lots of poultry.

This amendment would provide acceptance and rejection criteria to assure that the amount of moisture absorbed or retained in poultry does not exceed maximum limitations. It also would permit more flexibility to the poultry processor for adjusting chilling systems as long as the maximum moisture limits are not exceeded. Periodic testing and timely retention of all product that is not found to comply with maximum limitations would strengthen the present program and reduce the probability of poultry adulterated with excess water reaching the consumer.

The regulations specify maximum limits for moisture absorption and retention for the different classes of poultry. These tolerances would remain unchanged, except to update the turkey tolerances now in effect.

Subparagraphs (3) (ii), (iii), and (iv), paragraph (b) of § 81.50, would be revoked, subparagraph (3)(v) would be renumbered as subparagraph (3)(vii), and new subparagraphs (3) (ii), (iii), (iv), (v), and (vi) would be added to read as follows:

§ 81.50 Temperatures and cooling and freezing procedures.

* * * * * *

(b) * * *

(3) * * *

(ii) Poultry washing, chilling, and draining practices and procedures shall be such as will minimize moisture absorption and retention at time of packaging. With respect to ready-to-cook poultry that is to be consumer packaged, frozen, or cooked, the maximum moisture absorption and retention during washing, chilling, and draining processes shall not exceed at the time of packaging the percentage tolerance set forth in the following tables:

TABLE 1. FOR ALL CLASSES OF POULTRY OTHER THAN TURKEYS

Average ready-to-cook carcass weight prior to final washer (less necks and giblets):	*Average percent increase in weight over weight of carcass prior to final washer (less necks and giblets)*
Chickens 4¼ pounds and under.	8
Chickens over 4¼ pounds and all other classes of poultry other than turkeys.	6

TABLE 2. FOR ALL TURKEYS, CUT-UP AND/OR FROZEN

Average ready to cook carcass weight prior to final washer (less necks and giblets)	Average percent increase in weight over weight of carcass prior to final washer (less necks and giblets)	
	Frozen	Cut-up
0 lbs to 8 lbs. 8 ozs	8.0	9.0
8 lbs. 9 ozs. to 15 lbs. 15 ozs	6.0	7.0
16 lbs. to 16 lbs. 15 ozs	5.8	6.8
17 lbs. to 17 lbs. 15 ozs	5.5	6.5
18 lbs. to 18 lbs. 15 ozs	5.3	6.3
19 lbs. to 19 lbs. 15 ozs	5.1	6.1
20 lbs. to 20 lbs. 15 ozs	4.9	5.9
21 lbs. to 21 lbs. 15 ozs	4.8	5.8
22 lbs. to 22 lbs. 15 ozs	4.6	5.6
23 lbs. to 23 lbs. 15 ozs	4.5	5.5
24 lbs. to 26 lbs. 15 ozs	4.4	5.4
27 lbs. and over	4.3	5.3

(iii) When placed on the cut-up line, chickens 4¼ pounds and under that are chilled in continuous chillers and further aged or chilled in slush ice and water shall not have more than 10 percent moisture gain over the unchilled ready-to-cook carcass weight prior to the final washer.

(iv) With respect to poultry that is to be ice packed, the maximum amount of moisture that is permitted to be absorbed by such poultry, at the time it is removed from the drip line or other draining device for immediate packing, shall not exceed 12 percent of the ready-to-cook carcass weight taken prior to the final washer. The loss of moisture during holding and transportation, not to exceed a 24-hour period, shall result in moisture retention that is within the moisture absorption tolerances for frozen poultry set forth in Tables 1 and 2 of this section.

(v) Each official establishment may make adjustments in its washing, chilling, and draining methods provided it gives the inspector at the establishment written notice of the proposed adjustments before any changes are made: *And provided further,* That it identifies and weights in accordance with procedures set forth in the Poultry Inspectors' Handbook,[1] individually a random sample of no less than 50 ready-to-cook poultry carcasses before the final washer and again when they are removed from the drip line or other draining device immediately before packing. If the average weight of the 50 or more poultry carcasses taken before the final washer and their average weight after immediate removal from the drip line or draining device show that the product is in compliance with moisture absorption tolerances set forth in this section, the adjustments will become the established washing, chilling, and draining system for the establishment.

(vi) Ten-bird tests shall be conducted at least daily by inspectors for each class of poultry to assure compliance with requirements using procedures set forth in the Poultry Inspectors' Handbook; the inspectors' 10-bird test will be used to determine compliance. If the average weights of tested poultry from an official establishment show that they exceed the moisture absorption tolerances set forth in this section, all poultry of the class of poultry tested which is processed through the chilling system at that establishment after the test results were obtained, shall be retained by the inspector at the establishment, in accordance with a method approved by the Administrator, until a subsequent test shows that such poultry being processed at the establishment is in compliance with this section. Retained poultry shall not be released from the establishment until it is brought into compliance with the tolerances, applicable to the class of poultry retained, set forth in Tables 1 and 2 of this section, by a method approved by the Administrator.

(vii) The temperature of the chilling media in poultry chilling equipment shall not exceed 65° F. in the warmest part of the chilling system.

* * * * *

Any persons who desire to present any views, arguments, or data concerning the proposed amendment as set forth above may do so by filing their comments in writing, in duplicate, with the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions will be made available for public inspection at said office during regular office hours in a manner convenient to the public business (7 CFR 1.27(b)). Persons desiring opportunity for oral presentation of views should address such requests to the Slaughter Inspection Division, Consumer and Marketing Service, U.S. Department of Agriculture, 1735 North Lynn Street, Room 550, Pomponio Plaza, Arlington, Va. A transcript of all views orally presented will be made and filed in this office of the Hearing Clerk for public inspection during regular office hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., on March 16, 1970.

ROY W. LENNARTSON,
Administrator.

[F.R. Doc. 70-3353; Filed, Mar. 19, 1970; 8:46 a.m.]

[1] The Poultry Inspectors' Handbook is available upon request from the Slaughter Inspection Division of the Consumer and Marketing Service of this Department.

[7 CFR Part 1030]

[Docket No. AO-361-A2]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area which was issued February 27, 1970 (35 F.R. 4064), is hereby extended to April 23, 1970.

The above notice of extension of time for filing exceptions is issued 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).

Signed at Washington, D.C., on March 17, 1970.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-3398; Filed, Mar. 19, 1970; 8:50 a.m.]

[7 CFR Parts 1121, 1126]

[Dockets Nos. AO-364-A2, AO-231-A34]

MILK IN THE SOUTH TEXAS AND NORTH TEXAS MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the South Texas and North Texas marketing areas. The hearing was held, 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 (7 CFR Part 900), at Houston, Tex., on January 6, 1970, pursuant to notice thereof issued on December 17, 1969 (34 F.R. 19985).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on February 18, 1970 (35 F.R. 3293), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under Issue No. 2, "Location differentials," the 10th paragraph and the last paragraph are revised and two new paragraphs are added following the last paragraph.

2. Under Issue No. 3(b), "North Texas order," the second paragraph is revised.

The material issues on the record relate to:

1. Class I milk prices, South Texas order and Zone II of North Texas order.

2. Location differentials under the South Texas order.

3. Miscellaneous and conforming changes in:

(a) South Texas order, and

(b) North Texas order.

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. *Class I milk prices, South Texas order and Zone II of North Texas order.* The Class I price of the South Texas order should continue to be the basic formula price for the preceding month plus $2.48, and plus 20 cents per hundredweight. The Class I price of the North Texas order in Zone II should continue unchanged.

When the South Texas order was made effective October 1, 1968, the Class I price was established for an initial 18-month period as the basic formula price for the preceding month plus $2.48, plus a temporary addition of 20 cents. The 20-cent addition was made a permanent part of the pricing formula effective January 1, 1969.

The basic formula price is the price for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month adjusted to a 3.5 percent butterfat basis. A minimum basic formula price of $4.33 is provided.

The cooperative association which is the principal supplier for the South Texas market proposed that the Class I price formula in the order be continued indefinitely.

Two South Texas handlers proposed lower Class I prices. One proposed that the price be reduced 10 cents, at the same time proposing an equal reduction in the Zone II Class I price of the North Texas order. The other handler asked that the South Texas Class I price be reduced 21 cents.

It is concluded herein that the South Texas order Class I price should continue to be the basic formula price plus $2.48, and plus 20 cents. Such price will tend to maintain producer milk supplies now associated with the market. Within the framework of the existing procurement system which includes the regular receipt of supplementary supplies from other order markets, this price will assure an adequate supply for the market.

Throughout the effective period of the order the sources of milk supply for the market have been in most respects the same as before the order. The principal part of the supply is milk received from producers' farms. Producer milk alone, however, has not been enough to supply all of handlers' Class I sales. During the first 14 months of order regulation (October 1968 through November 1969) Class I sales of handlers averaged 55 million pounds per month while producer milk supplies averaged 53 million pounds. In only 2 months have the producer milk supplies exceeded handlers' Class I use, and then by less than 2 percent, in February and November 1968. For the entire period of October 1968 through November 1969 producer receipts were 4 percent less than Class I uses of handlers. This situation resembles that which existed prior to issuance of the order. Then, also, it was necessary for local handlers to receive shipments from Northern Texas and Kansas areas because of the deficit of locally produced supplies.

The quantity of producer milk on the market in recent months has been somewhat more than a year before. Producer receipts totaled 160.5 million pounds in October–December 1968 and 171.5 million pounds in the same period of 1969.[1] The 3-month volume in 1969, however, provided a margin of only 2.5 percent over handlers' Class I disposition.

Milk on the North Texas Federal order market is the nearest large supply from which supplemental milk may be obtained. The North Texas market, with a volume of producer milk nearly twice that of South Texas, serves as the primary source of reserve milk for this market.

During the first 12 months of the order (October 1968–September 1969) South Texas handlers' receipts from other order sources averaged 6.5 million pounds monthly, of which 5.3 million pounds monthly were allocated to Class I disposition. Other order milk received at pool plants therefore provided about 10 percent of the market's Class I milk needs. Monthly receipts of other order milk have varied during the period without a specific trend, ranging from 4.6 to 7.8 million pounds monthly. The smallest quantity was received in October 1969.

The existing system of procurement with most of the milk supply from producers, supplemented by shipments from other Federal order markets, has worked satisfactorily for meeting handlers' total needs.

Because of the partial dependence on out-of-market milk the supply situation for this market is affected by conditions in other markets from which milk supplies may be procured. As previously stated, among the markets which normally furnish milk to South Texas the North Texas market has the largest volume of receipts. Producer milk utilization in North Texas during the first 10 months of 1969 was 73 percent Class I compared to 88 percent utilization in South Texas. The Wichita and Oklahoma Metropolitan markets, also occasional sources of other order milk, had producer milk Class I utilization of 68 percent and 69 percent respectively during the first 10 months of 1969. The San Antonio market had Class I utilization of producer milk at 68 percent during these months. Thus markets which represent the most significant sources of available reserve milk have supplies which are more ample in relation to local fluid needs than is the case in South Texas.

The principal producer cooperative in the South Texas market is also a principal supplier of milk in the other order markets from which supplies are received and the organization now takes responsibility for intermarket movements of milk when supplies are needed in a given market. Dairy farmers within the organization may be shifted from other markets to South Texas when efficiency in procurement favors such an arrangement.

In view of the supply relationships with other markets and the fact that the volume of producer milk on the South Texas market increased slightly during the effective period of the order, there is no immediate threat to adequacy of supply for this market. The price level which has prevailed heretofore is concluded to be adequate in the circumstances found.

The price formula of the order should not be reduced, however, as proposed by certain handlers. It is important that any price action at this time should not lessen the incentive for dairy farmers regularly associated with this market to continue in milk production for delivery to this market. Because the South Texas market is the second largest in the southwest in terms of Class I disposition, the direct milk supply from producers' farms is necessary to insure a reliable source to meet the market's fluid needs. Any substantial deterioration of this source would make increasingly difficult the procurement of an adequate supply for this market, even though some dependence on other areas in the southwest region has been necessary.

Price relationship with other markets was the principal factor in the proposals made by two handlers for a lower Class I price level. One handler, using distance from Chicago as a basis for relative price levels in the Texas markets concluded that the Houston Class I price should be 26 cents over the North Texas order price at Dallas instead of 36 cents. He also would reduce the Class I price in the North Texas order Zone II by 10 cents. An essential part of this handler's proposal was to retain the price difference between Houston and Zone II of the North Texas order which now is 26 cents.

The first such proposal must be denied for the reasons previously cited which support continuation of the present price level. There was no support for the change in the North Texas Zone II price separate from a like change in the South Texas Class I price. This proposal thus has no merit apart from the first proposal. Therefore it is denied also.

The other handler testified that there is no need for different Class I price levels at Dallas and Houston, claiming that there was no showing that the milk production or marketing conditions are any different within the areas covered by the two orders. This, however, is contrary to the findings already cited with respect to the production and utilization in the two markets.

The higher price at Houston, which is a deficit market, than at Dallas is needed to secure for the South Texas market the necessary milk supply. Obviously, a price level even 36 cents higher than at Dallas has not induced from regular producers all the milk needed to meet market requirements. For the balance of the needed milk supply procured from North Texas or other markets relied upon to complete the supply needs, there is a cost

[1] Official notice is taken of Dec. 1969 Monthly Statistics published by South Texas Market Administrator.

factor over the North Texas Class I price to induce the milk to be brought to Houston. Location-wise, the areas of important milk supply are nearer to major consuming centers in the North Texas marketing area than to principal consuming centers in the South Texas marketing area.

2. *Location differentials.* The zone in which no location adjustments are applied to the Class I and uniform prices for milk received at plants under the South Texas milk order should be expanded to include the Texas counties of Lavaca and Wharton and that part of each of the counties of Colorado and Gonzales which is south of U.S. Highway 90.

The South Texas order provides for location adjustments at plants more than 60 miles from the nearer of the city halls in Houston or Beaumont, Tex. The nearby area, within the 60 mile distance where no adjustments apply, is designated as Zone I. North of Highway 90 and in Fayette County, Tex, the following minus location adjustments apply outside Zone I for designated distances from the Houston city hall: 60–100 miles, 12 cents; 100–140 miles, 18 cents; 140–180 miles, 22 cents; and 180–225 miles, 26 cents. South of Highway 90 and outside of Fayette County and Zone I, plus location adjustments are provided for designated distances from the Houston city hall. They are: 60–100 miles, 12 cents; and 100–140 miles, 18 cents. Beyond these specified mileage zones, adjustments at the rate of 1.5 cents for each additional 10 miles from the Houston city hall apply for both minus and plus differentials.

Two handlers proposed changes in location differentials under the South Texas order. Their proposals related only to the application of location differentials to their individual plants and not to revision of the differentials at other locations generally.

Sanitary Creamery, Inc., Gonzales, Tex., proposed that the 18-cent plus location differential at its plant be deleted or that some other adjustment be made to reduce the Class I price at such location. Land O'Pines Dairy Products Co., Lufkin, Tex., proposed that the minus location differential at its plant be increased to result in a Class I price thereat which would not exceed the North Texas order Class I price for plants at Marshall and Tyler, Tex.

Gonzales is 136 miles directly west of Houston. It is 68 miles east of San Antonio and 49 miles southeast of New Braunfels. San Antonio and New Braunfels are the principal price basing points under the San Antonio and Austin-Waco orders, respectively.

Under current pricing, the Gonzales Class I price is $2.86 over the basic formula price compared to $2.68 at Houston, $2.74 at San Antonio and $2.70 at New Braunfels. In consideration of price levels prevailing in the nearest available markets, San Antonio and New Braunfels, and the location of Gonzales relative to these alternative markets, procurement of a milk supply for the Gonzales plant does not require a price higher than the $2.68 level at this time. Further, a higher price is not necessary in relation to alternative sources in the North Texas area.

The Class I price at Gonzales should not be lower than at Houston, however. In areas to the south of both locations, milk supply is short in relation to fluid disposition. A lower price at Gonzales could induce milk producers to seek higher priced outlets to the south rather than supplying the plant at Gonzales. It is concluded therefore that no location differential should apply under the South Texas order at Gonzales.

The proposed change can be accomplished by extending the zone in which no location adjustment applies. The Texas counties of Lavaca and Wharton and that portion of the counties of Colorado and Gonzales lying south of U.S. Highway 90 should be included in a no adjustment zone.

The handler at Lufkin is 119 miles north of Houston. A minus location differential of 18 cents applies at his plant. This results in a price 8 cents higher than the price under the North Texas order for plants at Marshall and Tyler with which the Lufkin handler competes.

Marshall and Tyler are located approximately 100 and 80 miles, respectively, to the north of Lufkin. The 8-cent lower price in effect at Marshall and Tyler relative to Lufkin reflects the adjustment of Class I pricing from north to south. This is the direction in which transportation costs are incurred in moving milk supplies to Houston and major marketing outlets south of Houston from North Texas areas where more ample supplies are produced. The location value of the milk at all intervening locations, i.e., the amount necessary to assure a supply at a particular plant, whether it is locally produced or shipped in from the supply sources to the north, reflects the cost of such transportation. Otherwise, the producer will seek the best alternative outlet.

Considering the distances between Lufkin and the Marshall and Tyler plants and the related cost of moving milk, the price difference is reasonable. The proposed change in the location differential at Lufkin accordingly is denied.

Section 1121.54 entitled "Pricing zone" should be deleted. This provision specifies the area in which no location differentials apply. The same purpose can be achieved by modifying § 1121.53 entitled "Location differential to handlers" to include the language describing the no location differential zone.

In his brief, a North Texas handler requested that the South Texas order location differential at Dallas be modified. The handler contemplates that although his plant at Dallas has been previously regulated by the North Texas order, it may become subject to the South Texas order because of the large volume of sales made into the South Texas marketing area. For 2 recent months his sales in the South Texas area exceeded those in North Texas and such condition for a third month would result in regulation by the South Texas order.

The handler requests that the location differential under the South Texas order at Dallas be changed to minus 36 cents instead of 29 cents so that his price at this location would be the same under either order.

The record is not sufficient to deal with the problem presented by the handler. At the hearing the same handler supported the level of Class I pricing for the South Texas market which results in the price at the Dallas location which he now seeks to modify. Pricing under the South Texas order at the Dallas location or any location other than Houston was not explored by him on the record, and the testimony does not disclose how other plants might be affected by the change proposed in the brief. The proposal would need to be considered in relation to zone rates for plants at other distances from Houston which may be more or less distant than proponent's plant. There is no basis in the record for changing the rates for plants at other locations where changes might be appropriate in the event the price for the Dallas location were modified. In the absence of sufficient information to judge the results of the handler's proposal on price relationships among plants and thus on the entire schedule of location differentials the proposal must be denied on the basis of this record.

The handler took exception to the preceding conclusion as it appeared in the recommended decision and also filed a petition for reopening the hearing to deal with the location differential at his plant.

As stated previously, the proposed modification by the handler was made first in his brief following the hearing. In view of the above finding that the matter of location differentials effective for various plant locations between Houston and Dallas was not fully explored on the record and since no proposal has been made which would provide a basis for such exploration, there are no grounds for either adopting the proposed modification or granting the request to reopen the hearing. Accordingly, the requests to modify the location differentials and to reopen the hearing are denied.

3. *Miscellaneous and Conforming Changes* (a) *South Texas order.* In paragraph (a) of § 1121.80 *Time and method of payments,* the reference to "§ 1126.72", should be changed to "§ 1121.72." The language, as corrected, properly refers to the computation of the uniform price pursuant to § 1121.72 of the South Texas order.

(b) *North Texas order.* In § 1126.90, relating to payments to producers, the term "a partial payment" should be substituted for the term "an advance payment."

The order requires each handler to pay each producer on or before the 25th day of each month with respect to milk delivered during the first 15 days of the month at a rate not less than the Class II price for 3.5 percent milk of the preceding month without deduction for hauling. The order further provides that when the handler completes payments for all milk delivered during the month, he is

given credit for the partial payment he made for milk delivered during the first 15 days of the month.

The term "partial payment" is more descriptive of the type of payment to which reference is made and this term should be substituted for "advance payment" in § 1126.90(b).

RULING 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. 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 documents: marketing agreements regulating the handling of milk in the respective marketing areas and an order amending the orders regulating the handling of milk in the South Texas and North Texas marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

January 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the South Texas and North Texas marketing areas are approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the respective marketing areas.

Signed at Washington, D.C., on March 17, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] amending the orders, regulating the handling of milk in the South Texas and North Texas marketing areas.

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the South Texas and North Texas marketing areas. The hearing was held 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the South Texas and North Texas orders shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issue by the Deputy Administrator, Regulatory Programs, on February 18, 1970, and published in the FEDERAL REGISTER on February 21, 1970 (35 F.R. 3296), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein:

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

1. In § 1121.51, paragraph (a) is revised to read as follows:

§ 1121.51 Class prices.

* * * * *

(a) *Class I price.* The Class I milk price shall be the basic formula price for the preceding month plus $2.48, and plus 20 cents.

* * * * *

2. In § 1121.53, paragraphs (a) and (b) are revised to read as follows:

§ 1121.53 Location differential to handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned Class I disposition at the transferee plant pursuant to paragraph (c) of this section, or which is otherwise classified as Class I milk, and for other source milk for which Class I location adjustment credit is applicable, the price specified in § 1121.51(a) shall be reduced at the rate specified below for the applicable distance that such plant is located from the Houston city hall by shortest hard-surfaced highway distance, as determined by the market administrator:

Miles from city hall in Houston, Tex.:	*Rate per hundredweight (cents)*
60 miles but less than 100 miles	12
100 miles but less than 140 miles	18
140 miles but less than 180 miles	22
180 miles but less than 225 miles	26

For plants located beyond the 225 mile distance from the city hall in Houston, Tex., the rate of adjustment shall be increased 1.5 cents for each 10 miles or fraction thereof that such plant is located more than 225 miles from the city hall in Houston, Tex., by shortest hard-surfaced highway distance, as determined by the market administrator:

(b) For that milk which is received from producers at a pool plant located south of U.S. Highway 90 and (1) outside the Texas counties of Colorado, Fayette, Gonzales, Lavaca, and Wharton, and (2) beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned Class I disposition at the transferee plant pursuant to paragraph (c) of this section, or which is otherwise classified as Class I milk and for other source milk for which a Class I location adjustment is applicable, the price specified in § 1121.51(a) shall be increased at the rate specified below for the applicable distance that such plant is located from the Houston city hall by the shortest hard-surfaced highway distance, as determined by the market administrator.

Miles from city hall in Houston, Tex.:	*Rate per hundredweight (cents)*
60 miles but less than 100 miles	12
100 miles but less than 140 miles	18

For plants located beyond the 140 miles distance from the city hall in Houston, Tex., the rate of adjustment shall be

[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.

increased at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located more than 140 miles from the city hall in Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator;

* * * * *

§ 1121.54 [Revoked]

3. Section 1121.54 is revoked in its entirety.

§ 1121.80 [Amended]

4. In § 1121.80(a), the reference "§ 1126.72" is changed to read "§ 1121.72."

PART 1126—MILK IN THE NORTH TEXAS MARKETING AREA

In § 1126.90(b), the words "an advance" is deleted and the words "a partial" is substituted therefor.

[F.R. Doc. 70-3399; Filed, Mar. 19, 1970; 8:50 a.m.]

Notices

DEPARTMENT OF STATE

[Public Notice 324]

U.S. PASSPORTS FOR TRAVEL INTO OR THROUGH CUBA

Restriction on Use

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through Cuba is restricted as unrestricted travel into or through Cuba would seriously impair the conduct of U.S. foreign affairs. To permit unrestricted travel would be incompatible with the resolutions adopted at the Ninth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, of which the United States is a member. At this meeting, held in Washington from July 21 to 26, 1964, it was resolved that the governments of the American States not maintain diplomatic, consular, trade or shipping relations with Cuba under its present government. This resolution was reaffirmed in the Twelfth Meeting of Ministers of Foreign Affairs of the OAS held in September 1967, which adopted resolutions calling upon Member States to apply strictly the recommendations pertaining to the movement of funds and arms from Cuba to other American nations. Among other things, this policy of isolating Cuba was intended to minimize the capability of the Castro government to carry out its openly proclaimed programs of subversive activities in the Hemisphere.

U.S. passports shall not be valid for travel into or through Cuba unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of 6 months from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1970.

Dated: March 16, 1970.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[F.R. Doc. 70-3367; Filed, Mar. 19, 1970; 8:47 a.m.]

[Public Notice 323]

U.S. PASSPORTS FOR TRAVEL INTO OR THROUGH MAINLAND CHINA

Restriction on Use

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of a U.S. passport for travel into or through Mainland China is restricted as unrestricted travel into or through Mainland China would seriously impair the conduct of U.S. foreign affairs in view of the consequences which might ensue from the inadvertent involvement of American citizens in difficulties with local authorities.

U.S. passports shall not be valid for travel into or through Mainland China unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of 6 months from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1970.

Dated: March 16, 1970.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[F.R. Doc. 70-3366; Filed, Mar. 19, 1970; 8:47 a.m.]

[Public Notice 325]

U.S. PASSPORTS FOR TRAVEL INTO OR THROUGH NORTH KOREA

Restriction on Use

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through North Korea is restricted as unrestricted travel into or through North Korea would seriously impair the conduct of U.S. foreign affairs. In view of the dangerous tensions in the Far East, the expressed and virulent hostility of the North Korean regime toward the United States, the occurrence of incidents along the military demarcation line, the seizure by North Korea of a U.S. naval vessel and its crew, and the special position of the Government of the Republic of Korea which is recognized by resolution of the United Nations General Assembly as the only lawful government in Korea, the Department of State belives that wholly unrestricted travel by American citizens to North Korea would seriously impair the conduct of U.S. foreign affairs.

U.S. passports shall not be valid for travel into or through North Korea unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of 6 months from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1970.

Dated: March 16, 1970.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[F.R. Doc. 70-3368; Filed, Mar. 19, 1970; 8:47 a.m.]

[Public Notice 326]

U.S. PASSPORTS FOR TRAVEL INTO OR THROUGH NORTH VIET-NAM

Restriction on Use

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(b), use of U.S. passports for travel into or through North Viet-Nam is restricted as this is "a country or area where armed hostilities are in progress."

U.S. passports shall not be valid for travel into or through North Viet-Nam unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of 6 months from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1970.

Dated: March 16, 1970.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[F.R. Doc. 70-3369; Filed, Mar. 19, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

AREA DIRECTORS ET AL.

Delegation of Authority; Exceptions

MARCH 11, 1970.

Section 3.3 of Part 10 of the Bureau of Indian Affairs Manual was published in the January 16, 1969, issue of the FEDERAL REGISTER (34 F.R. 639). Section 3.3A(7) is being amended to allow the Area Directors to approve modifications of programs for the use and distribution of funds derived from judgments awarded as a result of tribal claims against the United States except approval of per capita and dividend distributions of such funds and interest accruals from them. Section 3.3 is hereby amended to read as follows:

3.3 *Exceptions.* The authorities redelegated in 3.1 above do not include the following:

A. *Funds and Fiscal Matters.* * * *

(7) Approval of the use and distribution of funds derived from judgments awarded as a result of tribal claims against the United States except that Area Directors may approve modifications in the programs for the use and distribution of such funds after the initial approval by the Commissioner. Area Directors may not approve modifications which would substantially change the intent of the initially approved program nor which would involve per capita or

dividend distributions of such funds and interest accruals from them.

JAMES F. CANAN,
Acting Commissioner.

[F.R. Doc. 70-3381; Filed, Mar. 19, 1970; 8:48 a.m.]

Bureau of Land Management

[OR 5710]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

MARCH 11, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 5710, for the withdrawal of the national forest land described below, from all forms of appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for use as the Corral Springs Campground.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WINEMA NATIONAL FOREST

WILLAMETTE MERIDIAN

Corral Springs Campground

T. 27 S., R. 8 E.,
Sec. 7, S½ of lot 1.

The area described contains approximately 21 acres.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-3341; Filed, Mar. 19, 1970; 8:45 a.m.]

[OR 5746]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

MARCH 11, 1970.

The Department of Agriculture, on behalf of the Forest Service has filed application, OR 5746, for the withdrawal of public land described below. Said land is to be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, nor the disposal of materials under the act of July 31, 1947, and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the Act of October 13, 1964.

This proposal for the South Sprague River Road (Road No. 3609) will provide a means by which the Secretary of Agriculture can grant easements for road rights-of-way to private parties.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

SOUTH SPRAGUE RIVER ROAD

T. 36 S., R. 15 E.,
Sec. 28, N½NE¼, SW¼NE¼, SW¼NW¼, N½SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 32, S½NE¼, N½SW¼, and NW¼-SE¼.

A strip of land 100 feet in width, being 50 feet in width on both sides of the centerline of the South Sprague River Road (No. 3609).

The area described contains about 23 acres.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-3342; Filed, Mar. 19, 1970; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-356]

UNIVERSITY OF ILLINOIS

Notice of Receipt of Application

The University of Illinois located at Urbana, Illinois, has filed an application pursuant to section 104c of the Atomic Energy Act of 1954, as amended, for licenses to construct and operate a Low Power Reactor Assembly (LOPRA) at steady-state power levels up to 10 kilowatts (thermal). The LOPRA will be an assembly of TRIGA-type fuel elements to be placed in the bulk shielding tank of the Illinois Advanced TRIGA Reactor being operated pursuant to Facility License No. R-115 (Docket No. 50-151).

A copy of the application is available for public inspection in the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 11th day of March 1970.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-3338; Filed, Mar. 19, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70-40]

WYANDOTTE CHEMICALS CORP.

Notice of Qualification as a Citizen

1. This is to give notice that pursuant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as amended by the Act of September 2, 1958 (46 U.S.C. 883-1), Wyandotte Chemicals Corp., 1609 Biddle Avenue, Wyandotte, Mich., incorporated under the laws of the State of Michigan, did on March 5, 1970, file with the Commandant, U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in Form 1260.

2. The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

3. The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, on March 13, 1970, issued to the Wyandotte Chemicals Corp. a certificate of compliance on Form 1262, as provided in 46 CFR 67.23-7(d). The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7(c).

Dated: March 13, 1970.

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

[F.R. Doc. 70-3397; Filed, Mar. 19, 1970; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22014; Order 70-3-78]

AIRLIFT INTERNATIONAL, INC. ET AL.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of March 1970.

Multicontainer air freight rates proposed by Airlift International, Inc., The Flying Tiger Line Inc., and United Air Lines, Inc.

By tariff postings on January 8 and 12, 1970, and marked for effectiveness April 1, 1970,[1] The Flying Tiger Line Inc. (Flying Tiger), proposes to increase the existing multicontainer general commodity rates in 21 markets, namely, westbound from Boston, New York, and Newark to Los Angeles, Oakland, and San Francisco, and eastbound from such California points to Boston, Chicago, New York, and Newark.[2] The proposal involves increases in the minimum charge specified for each container in a five-or-more Type A container shipment; the point above which additional weight is additionally charged from either 5,000 or 5,500 pounds to 3,200 pounds;[3] and above such point the excess-weight rates which apply (33 percent off as a density incentive discount) are also being increased.[4]

Flying Tiger asserts that their multicontainer rates were initially introduced in August 1968 to replace the now-extinct blocked-space service, that such multicontainer rates represented an increase of approximately 7.4 percent, that they have experienced substantial cost increases in the past 18 months, that if these rates were increased to reflect current cost levels an unconscionable and destructive increase to shippers would result, and that Flying Tiger is therefore proposing a measured increase, albeit not one which will fully cover its costs plus return on investment. Flying Tiger further supports its filing with certain cost data, indicating that present rates are below cost and that total cancellation of "multi" rates and the resulting application of only single-container rates would result in unfair increases of substantial magnitude.

Except for the 21 markets cited above in which increased multicontainer rates are proposed, Flying Tiger would permit the current multicontainer rates to expire, leaving thereafter the applicable single-container rates on the balance of Flying Tiger's system. Lastly, Flying Tiger proposes numerous specific commodity single-container rates, representing both increases and decreases depending upon the weight of the shipper-loaded Type A container.

American Airlines, Inc. (American), Shulman, Inc. (Shulman), Trans World Airlines, Inc. (TWA), United Air Lines, Inc. (United), and WTC Air Freight (WTC) have protested Flying Tiger's filing, requesting suspension and investigation of the proposed increases; Shulman and WTC desire extension of the present rates beyond March 31, 1970, and American, TWA, and United desire the elimination of all multicontainer rates.

Specifically, American protests Flying Tiger's reinstatement of volume weight breaks at 12,000, 15,000, and 20,000 pounds, as well as the continuation of multicontainer rates at any level below single-container rates, the latter for the reason that even the proposed increased rates are uneconomic and would fail to provide a return on investment. In addition, American cites the ommission of certain excess-weight rates by Flying Tiger as actually resulting in a decrease in rates of as much as 42 percent.

TWA also protests the reinstatement of volume weight breaks at 12,000 pounds and above, the increase in multicontainer rates, and the indirect reduction in the latter which would result through the omission of excess-weight rates in the eastbound markets.

United's complaint, in addition to the points raised by American and TWA, also protests certain reductions in containerized rates on specific commodities proposed by Flying Tiger.

WTC's protest, while not challenging Flying Tiger's cost data or their need for a rate increase, is essentially aimed at the need for a review of the rate structure, and a realignment of the rates at each weight break with costs and value of service.[5] In the interim, WTC advocates status quo on the present multicontainer rates.

Shulman similarly opposes any increase in multicontainer rates, and alleges that Flying Tiger has overstated its costs, that the proposed increases are therefore excessive, and that the present rates are economic.

In its answer to the complaints, Flying Tiger states that the proposed multicontainer rate increases are a step in the direction of higher rates on such traffic, as advocated by their trunk carrier competition, that Shulman advocates the "added-cost" theory of pricing on multicontainers, whereas prime westbound service should be at fully allocated cost, and that United's protest against the proposed single-container specific commodity rates fails to recognize the increases inherent in the rates at present shipper-loaded densities, albeit reductions at higher densities, and that, in any event, the proposed rates are in strict conformity with the minimum revenues per container specified under Agreement CAB 21225.[6]

By filing of January 30 and marked for effectiveness April 1, 1970, Airlift International, Inc. (Airlift), proposed to match Flying Tiger's multicontainer increases in the New York/Newark-Los Angeles/San Francisco markets;[7] by subsequent filing on February 13, 1970, Airlift proposes to withdraw such increases, and to extend the present expiration date of March 31, 1970, on the present multicontainer rates to December 31, 1970.

In support of its filing to withdraw the proposed increases, Airlift states that the present March 31, 1970, expiration date on the rates inhibits their ability to sell the service, that shippers have a sizeable investment in container-support equipment, that the now-canceled high-volume weight breaks in the New York-California market have historically been available to shippers, and the multicontainer rates are a natural replacement for such high-volume weight breaks, and

[1] Flying Tiger's filing included the reinstatement of general commodity volume weight breaks and rates at 12,000, 15,000, and 20,000 pounds. These rates were rejected for technical reasons. Airlift has also canceled their volume rates at 12,000 pounds and higher.

[2] All present multicontainer rates now bear an expiration date of Mar. 31, 1970.

[3] By a further filing on Feb. 18, 1970, Flying Tiger reinstated the 5,500-pound pivot weight in the eastbound markets, thus voiding the proposed increase in this direction.

[4] In the eastbound markets, Flying Tiger initially omitted excess-weight rates, hence the "minimum charges" were constant, irrespective of payload. By subsequent filing on Feb. 13, 1970, such omitted rates were added for effectiveness Apr. 1, 1970.

[5] Flying Tiger has subsequently filed, for effectiveness Apr. 1 and Oct. 1, 1970, a two-step increase intended to correct rate structure deficiencies.

[6] The cited container agreement was approved by the Board on Dec. 4, 1969, Order 69-12-27.

[7] By a defensive filing on Mar. 2, 1970, for effectiveness Apr. 1, 1970, United has matched Flying Tiger's multicontainer rates.

that the multicontainer rates are necessary to the all-cargo carrier to enable him to compete with the belly-bin capacity of passenger-carrying airlines by encouraging forwarders to tender daily volumes in excess of 15,000 pounds.

In addition to the foregoing, Airlift submits certain cost and revenue data as to the present multicontainer rates, and while acknowledging that the costs may exceed revenue from multicontainers alone, states that additional revenue from single containers and noncontainerized freight would be vigorously sought to increase the profit level and minimize dependency on multicontainer rates.

No person has protested this filing.

Upon consideration of all relevant matters, the Board concludes that the proposed increases should be permitted and the complaints dismissed. The Board has earlier expressed concern with the economic validity of these multicontainer rates in that they may not be supported by cost differences as compared with the single container rates (Order 68–10–111). It is recognized, however, that a total cancellation of these rates at this time would result in excessive and burdensome rate increases. Accordingly, the Board believes that the proposed increases strike a reasonable balance between the carrier's revenue requirements on the one hand and shippers' need to be protected against sharp rate increases. By the same token, Airlift's proposal to maintain present rates to December 31, 1970, by withdrawing its proposal to increase them, may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation. The Board remains concerned, however, with the multicontainer rates because of the apparent lack of cost savings attributable to five-container shipments as compared with single-container shipments, and the potential discrimination among shippers involved in the absence of significant cost differences. In the longer term, we believe a sound rate structure would avoid this type of pricing.

Flying Tiger's proposed containerized specific commodity rate reductions are achieved by a substantially greater density within the container than is presently experienced, which appears to justify the rate reduction per pound. It is significant to note that no shipper has protested the filing, nor has any party provided factual data on which the Board could conclude that suspension of the increased rates is warranted. The protests with respect to Flying Tiger's volume weight breaks and omitted excess-weight rates are moot by virtue of the subsequent filings.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. The complaints of American Airlines, Inc., in Dockets 21873 and 21876; Shulman, Inc., in Docket 21890; Trans World Airlines, Inc., in Docket 21820; United Air Lines, Inc., in Docket 21874; and WTC Air Freight in Docket 21831, are dismissed;

2. An investigation is instituted to determine whether the rates, charges, and provisions described in Appendix A attached hereto,[6] and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, or practices affecting such rates, charges, and provisions;

3. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A attached hereto are suspended and their use deferred to and including June 29, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

4. The proceeding herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariff named above and shall be served upon Airlift International, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–3374; Filed, Mar. 19, 1970; 8:47 a.m.]

[Docket No. 21971; Order 70–3–83]

CAPITOL INTERNATIONAL AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of March 1970.

On February 19, 1970, Capitol International Airways, Inc. (Capitol), filed revisions to its tariff,[1] increasing a proposed DC–8–31 rate from $3 to $3.15 and a proposed DC–8–55 rate from $3 to $3.40.[2] The carrier submitted a supplemental justification for this increase stating that the rates should be adjusted to reflect the basic capacity differences between the two aircraft and to reflect the cost of operations of each type. The carrier stated further that the proposed rates are equated to the DC–8–63 rate on a seat-mile basis.

No complaints were filed against these rates.[3] Although the newly proposed rates are more properly related to other domestic military charter rates than the $3 rate that is under suspension and investigation and cover the reported direct operating costs for these aircraft, when consideration is given for indirect costs, income taxes and return on investment the rates become marginal. As stated in Order 70–3–11, the lowering of these rates will lead to an undermining of the present rates to what appears to be an uneconomic level. Furthermore, the use of the seat-mile rate for the long-range, stretched jet is not a valid basis for setting a rate for domestic, short-range operations with the standard jets. Moreover, by Order 70–3–12 of March 3, 1970, the Board suspended and instituted an investigation to determine whether the military charter rate proposed by Saturn Airways, Inc., of $3.50 per mile for DC–8F aircraft is or may be unlawful.

Upon consideration of all relevant matters, the Board finds that the $3.15 and $3.40 rates for DC–8–31 and DC–8–55 aircraft, respectively, should be suspended and investigated along with Capitol's previously suspended rates. Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the charter rates of $3.15 per mile for DC–8–31 aircraft and $3.40 per mile for DC–8–55 aircraft applicable to military traffic, on 41st Revised Page 17 of Capitol International Airways, Inc.'s, CAB No. 5 (Capitol Airways, Inc., series), and rules, regulations, and practices affecting such rates, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, and rules, regulations, or practices affecting such rates;

2. Pending hearing and decision by the Board, the charter rates of $3.15 per mile for DC–8–31 aircraft and $3.40 per mile for DC–8–55 aircraft applicable to military traffic, on 41st Revised Page 17 of Capitol International Airways, Inc.'s, CAB No. 5 (Capitol Airways, Inc., series), are suspended and their use deferred to and including June 18, 1970, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation ordered herein is consolidated with Docket 21971;

4. Except to the extent granted herein, the joint complaint of Modern Air Transport, Inc., Purdue Airlines, Inc., and Universal Airlines, Inc., in Docket 21995 is hereby dismissed;

5. The proceeding herein be assigned for hearing before an examiner of the

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[6] Filed as part of the original document.

[1] Capitol International Airways, Inc., Passenger Tariff No. 5, CAB No. 5.

[2] The Board, by Order 70–3–11 of Mar. 3, 1970, instituted an investigation to determine whether the $3 per plane-mile military charter rates proposed by Capitol for transportation on DC–8–31 and DC–8–55 aircraft are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful. Pending hearing and decision by the Board, the rates in question have been suspended and their use deferred to and including June 2, 1970.

[3] A late-filed joint complaint on behalf of Modern Air Transport, Inc., Purdue Airlines, Inc., and Universal Airlines, Inc., was received on Mar. 10, 1970. Due to the untimely filing and our action herein, consideration of the complaint was not necessary and it will be dismissed.

Board at a time and place hereafter to be designated; and

6. Copies of this order shall be filed with the tariffs and served upon Capitol International Airways, Inc., which is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-3375; Filed, Mar. 19, 1970; 8:48 a.m.]

[Docket No. 20993; Order 70-3-73]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority March 16, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated March 10, 1970, names an additional specific commodity rate, as set forth below, which reflects a significant reduction from the general cargo rate.

R-25:
Commodity Item 7625—Furniture Made of Wood 110 cents per kg., minimum weight 1,000 kgs. Cairo to New York.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 21380, R-25, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-3371; Filed, Mar. 19, 1970; 8:47 a.m.]

[Docket No. 20993; Order 70-3-74]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Rate Matters

Issued under delegated authority, March 16, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB Agreement number.

The agreement amends the resolutions governing rounding-off of cargo rates by the inclusion of the currency of the German Democratic Republic not heretofore specified.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the following resolutions, which are incorporated in the agreement indicated, are adverse to the public interest or in violation of the Act:

IATA Resolutions:
100(Mail 836)023b.
200(Mail 001)023b.
300(Mail 327)023b.
JT12(Mail 732)023b.
JT23(Mail 250)023b.
JT31(Mail 179)023b.
JT123(Mail 637)023b.

Accordingly, it is ordered, That:

Action on Agreement CAB 21663 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-3372; Filed, Mar. 19, 1970; 8:47 a.m.]

[Docket No. 20291; Order 70-3-77]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority, March 16, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conferences 1 and 2 and Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement would extend through March 31, 1971, for application within the Western Hemisphere, within Europe/Africa/Middle East, and via the Atlantic, the effectiveness of a resolution governing the offering of free and reduced fare or rate transportation by carriers pursuant to government request. This resolution is scheduled to expire with March 31, 1970.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the following resolutions, which are incorporated in the agreement indicated, are adverse to the public interest or in violation of the Act:

IATA Resolutions:
100(Mail 834)002n.
200(Mail 997)002n.
JT12(Mail 730)002n.

Accordingly, it is ordered, That:

Action on Agreement CAB 21634 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-3373; Filed, Mar. 19, 1970; 8:47 a.m.]

CIVIL SERVICE COMMISSION

DIRECTOR, OFFICE OF SALINE WATER

Manpower Shortage, Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found, effective March 4, 1970, that there is a manpower shortage for the single position of Director, Office of Saline Water, GS-301-18, Office of the Assistant Secretary for Water Quality and Research, Department of the Interior, Washington, D.C. The appointee may be paid for the expense of travel and transportation to his first post of duty.

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

[F.R. Doc. 70-3349; Filed, Mar. 19, 1970; 8:46 a.m.]

GREENSKEEPER, DOVER AIR FORCE BASE

Manpower Shortage, Notice of Listing

Under provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on March 2, 1970, for the single position of Greenskeeper, WG-5334-10, Dover Air Force Base, Dover,

Del. Assuming other legal requirements are met, the appointee to this position may be paid for the expense of travel and transportation to first post of duty. The finding is self-canceling when the position is filled.

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

[F.R. Doc. 70-3348; Filed, Mar. 19, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

MARCH 16, 1970.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on April 28, 1970, the following standard broadcast application will be considered as ready and available for processing:

BP-18729 WLTN, Littleton, N.H.
The Littleton Broadcasting Co., Inc.
Has: 1400 kc., 250 w., U.
Req: 1400 kc., 250 w., 1 kw.-LS, U.

Pursuant to § 1.227(b)(1), § 1.591(b) and Note 2 to § 1.571 of the Commission's rules,[1] an application, in order to be considered with the above application must be in direct conflict with said application, substantially complete and tendered for filing at the offices of the Commission by the close of business on April 27, 1970.

The attention of any party in interest desiring to file pleadings concerning the application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: March 11, 1970.

Released: March 16, 1970.

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

[F.R. Doc. 70-3361; Filed, Mar. 19, 1970; 8:47 a.m.]

[1] See report and order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 RR 2d 1667.

APPLICATION DELETED FROM PUBLIC NOTICE OF DECEMBER 20, 1968 (MIMEO NO. 15471) (33 F.R. 19208) (33 F.R. 20064)

BP-18127 WLTN, Littleton, N.H.
The Littleton Broadcasting Co., Inc.
Has: 1400 kc., 250 w., U.
Req: 1260 kc., 5 kw., Day.
(Assigned new File No. BP-18729.)

[FCC 70-259]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

MARCH 17, 1970.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on April 21, 1970 the following standard broadcast application will be considered as ready and available for processing:

BP-18645 WWJC, Duluth, Minn.
WWJC, Inc.
Has: 1270 kc., 5 kw., Day (Superior, Wis.).
Req: 850 kc., 10 kw., Day (Duluth, Minn.).

Pursuant to § 1.227(b)(1), § 1.591(b) and note 2 to § 1.571 of the Commission's rules,[1] an application, in order to be considered with the above application must be in direct conflict with said application, substantially complete and tendered for filing at the offices of the Commission by the close of business on April 20, 1970.

The attention of any party in interest desiring to file pleadings concerning the application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-3362; Filed, Mar. 19, 1970; 8:47 a.m.]

[Docket No. 18478; FCC 70-254]

DEPARTMENT OF DEFENSE AND AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Instituting a Hearing

1. The Commission has before it: (a) A complaint and reply by the Secretary of Defense, on behalf of the Department of Defense (DOD), filed February 24, 1969, and May 16, 1969, respectively, requesting the Commission to investigate the charges for certain equipment appearing in A.T. & T. Tariff FCC No. 260 and for damages as a result of these charges and other charges for the same equipment appearing in prior tariff pages; and (b) an answer filed by the American Telephone and Telegraph Co. (A.T. & T.) on April 10, 1969, in which it urges the Commission to dismiss the complaint.

2. The charges complained of by DOD are for equipment which comprises one part of a private line communications system called "Nightwatch." The system is composed of aircraft containing elaborate communication equipment which is furnished by the Air Force and a ground communications complex compatible with the aircraft. The ground communications complex is provided by A.T. & T. and consists, at the present time, of three mobile stations placed in service on December 2, 1962, and three fixed stations placed in service on December 31, 1962, May 1, 1964, and November 30, 1964.

3. At present, the tariff charges for the mobile and fixed stations are contained in A.T. & T. Tariff FCC No. 260, Ninth Revised Page 162 (hereinafter referred to as the Ninth Revision). In addition, supplemental charges are provided for dual operation, temporary moving of stations, and 7-day, 24-hour per day operation. The Ninth Revision replaced, without changes as to charges in question here, the Eighth Revised Page 162, which in turn replaced the Seventh Revised Page 162 (hereinafter referred to as the Seventh Revision) which never became effective. The Seventh Revision replaced the Sixth Revised Page 162, A.T. & T. Tariff FCC No. 260 (hereinafter referred to as the Sixth Revision), which had provided separate charges for fixed stations and mobile stations. The Sixth Revision further provided that the fixed and mobile stations were to be provided only at specified locations. The supplemental charges contained in the Seventh, Eighth, and Ninth Revisions were not set out as separate charges in the Sixth Revision.

4. The charges for the fixed and mobile stations under all of the above tariffs are composed of a termination charge, which is reducible one-sixtieth for each month the equipment is in service and a monthy charge. DOD, in its complaint, alleges that the termination and monthly charge are unjust and unreasonable because: (1) the original charges which were filed on an estimated cost basis were not promptly revised when the actual costs proved to be lower than estimated; and (2) the charges are based upon a claimed net investment and claimed annual depreciation expense which are in excess of the actual current net investment and annual depreciation expense. DOD alleges that because of the overstated net investment, the monthly charges have been in excess of a reasonable rate of return by an amount in excess of $200,000 per year and that because, as of March 1, 1968, almost all of the "nonrecoverable costs" of the equipment have been recovered through

[1] See report and order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 RR 2d 1667.

APPLICATION DELETED FROM PUBLIC NOTICE OF NOVEMBER 9, 1966 (MIMEO NO. 91571) (31 F.R. 14698)

BP-17252 WWJC, Superior, Wis.
Twin Ports Christian Broadcasting Corp.
Has: 1270 kc., 5 kw., Day.
Req: 850 kc., 10 kw., Day.
(Assigned new File No. BP-18645.)

[2] Action by the Commission Mar. 11, 1970. Commissioners Burch (Chairman), Bartley, Robert E. Lee, Cox, H. Rex Lee and Wells, with Commissioner Johnson dissenting.

depreciation accruals, the annual depreciation expense related to the "nonrecoverable costs" should be reduced by $500,000 per year.

5. DOD alleges that A.T. & T.'s utilization of a total investment factor which includes a factor for "plant under construction" is improper and contrary to decisions of the Commission; and that the factor is also improper since there is no plant under construction remotely related to the provision of the service and equipment for "Nightwatch."

6. DOD further alleges that the supplemental charge for dual operation contained in the Ninth Revision was not tariffed in the Sixth Revision but that nevertheless the charge was identified and billed as a separate item on the Monthly Service Charge Detail; and that the net investment in the equipment used to provide the service is overstated.

7. A.T. & T. replies by denying all DOD's allegations in paragraphs 4 and 5 above and denying the allegation in paragraph 6 above that the net investment in the equipment used to provide dual operation is overstated. A.T. & T. admits that the supplemental charge for dual operation was not tariffed prior to March 1, 1968; that the item of equipment and service has been provided at one of the fixed stations since December 22, 1963; and that since December 22, 1963, and prior to March 1, 1968, this item was identified as a separate item on the Monthly Service Charge Detail.

8. By way of affirmative defense, A.T. & T. states that past investment and expenses associated with providing the service cannot be controlling in the making of reasonable estimates of future rates; and that this is especially true with "Nightwatch" since replacements and reconfigurations which require a substantial increase in the investment and expenses will probably occur in the near future. Secondly, A.T. & T. requests that further proceedings on the complaint should be stayed pending studies which will be useful in evaluating the present "Nightwatch" charges. Finally, A.T. & T. states that recovery of damages for any period prior to February 24, 1968, is barred by section 415 of the Communications Act of 1934, as amended.

DISCUSSION

9. The complaint of the Department of Defense raises questions as to the lawfulness of A.T. & T. Tariff FCC No. 260, Ninth Revised Page, Sixth Revised Page, and prior pages containing the same charges, and requests that we initiate an investigation under section 208 of the Communications Act of 1934, as amended. The Commission is of the opinion that the pleadings raise substantial questions as to the lawfulness of the charges A.T. & T. has been making for the equipment and services provided to DOD for its "Nightwatch" system. We feel that if a tariff provides charges for specially constructed equipment and services connected therewith, as is the case here, substantial questions are raised when the charges may not reflect the actual net investment of the carrier. Issues A through C below are concerned with these questions.

10. A further question is raised by facts appearing in the cost data associated with Transmittal No. 9961, dated December 27, 1967, which accompanied the Seventh Revision, as to whether A.T. & T. has been providing equipment and service at locations other than provided for under the tariff. Since DOD has not complained of this possible violation of section 203 of the Act, the Commission will, on its own motion, initiate an investigation, pursuant to section 403 of the Act, to determine whether any such violations of that section have occurred and if so, what action should be taken. Issue D below is concerned with this question. Finally, there is the admitted violation of section 203(c) of the Act by A.T. & T. in providing equipment and service, and making a charge therefor, without having that charge on file with the Commission.

11. As to the affirmative defense of A.T. & T. requesting that any action on the complaint be stayed pending further studies, we do not feel that this motion should be granted on the mere assertion that such studies are being undertaken without more information as to the effect such studies are supposed to have on the immediate questions brought to light by the complaint. And finally, on the question of past damages, we note that the statutory limit of section 415 of the Act does not apply to the Department of Defense. See our "Memorandum Opinion and Order" of June 9, 1965, in United States of America by the Administrator of General Services v. A.T. & T., Docket No. 14040 (FCC 65-508).[3]

12. *Accordingly, it is ordered,* That, pursuant to the provisions of section 201 through 209 and 403 of the Communications Act of 1934, as amended, a public hearing shall be held at a time and place to be hereinafter designated upon the following specific issues:

ISSUES:

A. Whether the charges, classifications, regulations, and practices of A.T. tions, regulations, and practices of A.T. UPU, USOC-UPW, USOC-UPZ, and USOC-UPY, contained in A.T. & T. Tariff FCC No. 260, Ninth Revised Page 162 are unjust and unreasonable and therefore unlawful within the meaning of section 201(b) of the Communications Act of 1934, as amended?

B. Whether the charges, classifications, regulations, and practices of A.T. & T. for the items identified as USOC-7CH and USOC-7JJ contained in A.T. & T. Tariff FCC No. 260, Sixth Revised Page, and prior pages containing the same charges, were unjust and unreasonable and therefore unlawful within the meaning of section 201(b) of the Communications Act of 1934, as amended?

C. What is the proper amount of damages due if any of the charges, and/or classifications, practices, and regulations affecting such charges for the item specified in issues (A) and (B) are found to be unlawful?

D. Whether A.T. & T. has provided equipment identified as USOC-7CH and USOC-7JJ to DOD for use in its "Nightwatch" system at locations other than those specified in A.T. & T. Tariff FCC No. 260, Sixth Revised Page 162, in violation of section 203 of the Act and Part 61 of our rules implementing that section, and, if so, what action should be taken with respect thereto?

E. Whether the nontariffed charge for dual operation of the "Nightwatch" stations which was collected by A.T. & T. from December 22, 1963, until March 1, 1968, was unjust and unreasonable and therefore unlawful within the meaning of section 201(b) of the Communications Act of 1934, as amended?

F. What action should be taken with respect to the collection of nontariffed charges for the dual operation of "Nightwatch" stations?

16. *It is further ordered,* That the American Telephone and Telegraph Co. and the Department of Defense are hereby designated parties to this proceeding.

17. *It is further ordered,* That a Hearing Examiner shall be designated to preside in the proceeding ordered herein, who shall prepare an Initial Decision on all of the issues in the complaint proceeding as provided in § 1.267 of the Commission's rules.

Adopted: March 11, 1970.

Released: March 16, 1970.

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

[F.R. Doc. 70-3363; Filed, Mar. 19, 1970; 8:47 a.m.]

[Docket No. 18536, FCC 70-255]

GENERAL TELEPHONE COMPANY OF THE NORTHWEST ET AL.

Memorandum Opinion and Order Instituting a Hearing

The U.S. Department of Defense, Complainant, v. General Telephone Company of the Northwest, General Telephone Company of California, General Telephone Company of Wisconsin, General Telephone Company of Florida, West Coast Telephone Company of California, St. Joseph Telephone and Telegraph Co., United Telephone Company of the Northwest, Nevada Telephone-Telegraph Co., Defendants.

1. The Commission has before it for consideration a formal complaint filed pursuant to section 208 of the Communications Act of 1934, as amended, by the U.S. Department of Defense (DOD) against the above-named defendants. Also, before the Commission are the answers of said defendants, the separate motions to dismiss filed by General Telephone Company of California, General Telephone Company of Florida, and General Telephone Company of Wisconsin, and a reply to the answers of all defendants filed by DOD.

[3] But see 28 U.S.C. §§ 2415-2416 (Supp. III, 1968).

2. DOD alleges that it is procuring from the defendants, as well as from other independent companies and the Bell System, Dial Restoration Panel (DRP) equipment which is used to establish and restore Data and Ground/Air Communication for the SAGE/BUIC four-wire switched circuits. Generally, the DRP is a manually operated panel whereby the Air Force is able to dial a circuit to a selected site and by proper coordination, terminate the circuit to the desired equipment. Currently, the defendants are providing nine DRPs under intrastate tariffs, special assembly provisions of intrastate tariffs, or on a magnitude of cost basis prior to filing an intrastate tariff.[1]

3. The substance of DOD's complaint is that the DRP equipment provided by defendants is interstate in nature and that the defendants by "charging, collecting and receiving a greater or lesser or different compensation than that set forth in A.T. & T. Tariff F.C.C. No. 260" are clearly in violation of section 203(c) of the Act. DOD requests that the Commission direct the defendants to cease and desist from the aforesaid alleged violation of section 203(c) and that the Commission further direct the defendants "to pay to the Complainant damages, for unlawful charges which have heretofore been billed and paid by the Complainant, the exact amount of which is currently unknown * * *" or such other and further relief as the Commission may consider proper.

4. With the exception of Northwest, West Coast, and United, the defendants deny that they are subject to the jurisdiction of the Commission with respect to the relief sought by the complainant. All defendants deny that the furnishing of DRP equipment is part of an interstate through service which should be furnished at tariff rates filed with the Commission, and further deny that the DRP equipment provided is interstate in nature,[2] and that the furnishing of DRP equipment under defendants' interstate tariffs is in violation of section 203(c) of the Act.

5. Again with the exception of Northwest, West Coast, and United, who admit that they are "fully subject carriers" subject to the Commission's jurisdiction, the remaining defendants allege that they are "connecting carriers" within the meaning of sections 3(u) and 2(b) (2) and (3) of the Act. These defendants move to dismiss the complaint because (a) as connecting carriers sections 206–222 of the Act are inapplicable to them and, as such, they are not subject to the Commission's jurisdiction under section 208 of the Act; (b) as connecting carriers they are specifically relieved of any tariff requirements by section 203 of the Act[3] and, as such, the Commission is not empowered to grant the relief requested in the complaint. All the defendants allege, that DRP equipment is furnished as telephone exchange service, as defined in section 3(r) of the Act, and thus pursuant to section 221(b) of the Act is not subject to the jurisdiction of this Commission even though such facilities may be used in part for interstate or foreign communication.

6. Insofar as the complaint requests damages for alleged unlawful charges defendants contend that the request does not comply with the requirements of § 1.723 of the Commission's rules with respect to allegations of certainty concerning the damages claimed. Defendants further contend that in the absence of such certainty it cannot be determined whether the claim for damage was filed within the statutory period of limitations. 47 U.S.C.A. § 415, 47 CFR § 1.727(b). Insofar as complainant may be asking for damages as a result of overcharges, defendants allege that such requested damages are not based upon charges for services in excess of those applicable thereto under any schedule of charges lawfully on file with this Commission as required by 47 U.S.C.A. § 415(g).

7. In its reply, DOD reaffirms its position that the DRP equipment is interstate in nature and that its interstate use is fully demonstrated by Attachment A to its complaint. Further DOD submits, citing Rochester Telephone Corporation v. U.S.,[4] that section 2(b)(1) is to be strictly construed and the burden is on the defendants to establish the intrastate nature of the DRP equipment. DOD further states that defendant's reliance on section 221(b) of the Act is misplaced in that section 221(b) applies to interstate communications within an exchange area, but that at none of the locations here involved is the equipment used within an exchange area within which interstate communications are possible.

8. As heretofore indicated defendants have alleged that DRPs are not furnished as a part of any established through route for interstate or foreign wire or radio communication and that as such they (1) as connecting carriers are not in violation of section 203(a) of the Act, or (2) that they are not required under section 203(a) of the Act to file with this Commission charges for DRP equipment. DOD, in its reply, alleges that defendants in (1) above have miscontrued the gravamen of DOD's complaint in that DOD is not complaining that the connecting carriers are in violation of section 203(a) by the failure to file schedules of charges, but rather that defendants are in violation of section 203(c) by charging compensation different from that published by A.T. & T. on behalf of itself and its connecting carriers. DOD further argues that a reading of section 203(a) demonstrates that DRPs are furnished as a part of an established through route for interstate communication.

DISCUSSION

9. We shall first rule on the question of whether the Commission has jurisdiction over "connecting carriers" under section 208 of the Act. For the reasons stated in The Fallon Travelodge et al., 14 F.C.C. 2d 972 (1968), we conclude that we have such jurisdiction. In ruling on the same question, the Commission therein stated:

> Defendant as a "connecting carrier" is expressly subject to the provisions of sections 201–205 of the Act, 47 U.S.C. 152(2)(b). In Ward v. Northern Ohio Telephone Company, 300 F. 2d 816 (6th Cir. 1962) the Court held that a "connecting carrier," obligated to comply with the substantive requirements of sections 201–205, is also subject to the remedial provisions of section 207 of the Act. * * * As stated by the court in Ward it would be unreasonable to hold that a "connecting carrier" is not subject to the provisions for "enforcement of the rights which the company may see fit to violate." Section 208 of the Act, under which this complaint was filed, is a remedial provision of the Act that is tied in with section 207, and we conclude that we have jurisdiction over defendant in this case for the reasons stated by the Court in Ward. 14 F.C.C. 2d at 974.

10. Whether the Commission has jurisdiction over the subject matter of this complaint presents a more complex question. While it is admitted that the DRP is capable of interconnecting terminal station equipment to interstate as well as intrastate facilities, it is disputed as to whether interstate or intrastate communication service is involved. The Commission has previously held that, where equipment is used by a customer for both interstate and intrastate communications, the Commission has jurisdiction over that equipment to the extent that it is used in interstate communications. A.T. & T. Railroad Interconnections, 32 F.C.C. 337, 339 (1962); Fallon Travelodge, supra. We believe that the complaint raises substantial questions as to the interstate nature of this equipment and inasmuch as the operational facts pertinent to resolution of this question

[1] The American Telephone and Telegraph Co. on Mar. 1, 1966, filed a tariff with this Commission for DRP equipment as an interstate offering. The equipment is offered under A.T. & T. Tariff F.C.C. No. 260 which sets forth the charges, classifications, practices and regulations relative to such equipment. General Telephone Company of the Northwest (Northwest), West Coast Telephone Company of California (West Coast), and United Telephone Company of the Northwest (United) are "concurring carriers" and the remaining defendants "connecting carriers" in said tariff.

[2] In support of this allegation, defendants typically allege that the DRP is a type of manual switching equipment capable of interconnecting terminal station equipment to intrastate as well as interstate facilities in the same manner as that of any PBX or local switchboard. A portion of the DRP interval circuitry is dedicated to the termination of up to 12 local appearances. Provision is made on both the key shelf and in the relays of the DRP for such termination. The operation of the DRP is local in nature and is connected to a local PABX and a local exchange. The operation of the DRP is not essential to the proper functioning of the interstate circuitry, but provides for certain manual switching at the option of the subscriber.

[3] Section 203(a) provides in part "Every common carrier, except connecting carriers shall * * * file with the Commission * * * schedules showing all charges * * *."

[4] 23 F. Supp. 634, 636 (1938); aff'd. 307 U.S. 125.

are in dispute, an evidentiary hearing is required and shall be ordered herein.[5]

11. The defendants have alleged that the complaint fails to comply with either § 1.723 or § 1.727(b) of the Commission's rules with respect to allegations of certainty concerning the damages claimed thus preventing a determination as to whether the claim was filed within the statutory period of limitations contained in section 415. The period of limitations as set forth in section 415 of the Act does not run against the U.S. Government. United States of America v. American Telephone and Telegraph Company et al., F.C.C. 65–508 (1965). Finally, we believe that the complaint is not legally defective for failure to be more specific as to the damages claimed. Under § 1.731 (b) of our rules, defendants could have filed a motion that the allegations in the complaint be made more definite and certain as to the claim for damages. Defendants elected not to do so. Moreover, complainant has the burden of proof as to damages and if defendants can make a proper showing that it is entitled to greater specificity as to complainant's damages claim in advance of the hearing, our prehearing procedures are available for this purpose.

12. *Accordingly, it is ordered,* That pursuant to sections 203(a) and (c), 208, 403 and 411 of the Communications Act of 1934, as amended, this proceeding is designated for hearing at the Commission's offices in Washington, D.C., at a time to be specified, and that the examiner to be designated to preside at the hearing shall prepare an initial or recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282.

13. *It is further ordered,* That without in anyway limiting the scope of this proceeding, it shall include inquiry into the following:

(1) Whether the furnishing of any of the dial restoration panel equipment and the circuits utilized relative thereto and charged for under intrastate tariffs constitute interstate or foreign communication within the meaning of the Act and, if so, whether the charges collected by defendants for the provision of said equipment under intrastate tariffs are unlawful pursuant to section 203(c) of the Act.

(2) Whether complainant is entitled to any damages as a result of any violation of section 203(c) of the Act that may be found under the foregoing issue; and, if so, the amounts thereof.

(3) Whether, in light of the evidence adduced pursuant to issue (1) above, the Commission should require A.T. & T. to set forth the charges for the furnishing of DRP equipment and the classifications, practices, and regulations affecting such charges in its Tariff FCC No. 260 on behalf of the above-captioned defendants.

14. *It is further ordered,* That the motions to dismiss filed by General Telephone Company of California, General Telephone Company of Florida, and General Telephone Company of Wisconsin are denied without prejudice.

15. *It is further ordered,* That the Secretary of the Commission shall cause a copy of this memorandum opinion and order to be served upon the U.S. Department of Defense, General Telephone Company of the Northwest, General Telephone Company of California, General Telephone Company of Wisconsin, General Telephone Company of Florida, West Coast Telephone Company of California, St. Joseph Telephone and Telegraph Co., United Telephone Company of the Northwest, Nevada Telephone-Telegraph Co., American Telephone and Telegraph Co., and the aforesaid are made parties to this proceeding.

16. *It is further ordered,* That the Secretary of the Commission shall cause a copy of this memorandum opinion and order to be published in the FEDERAL REGISTER.

Adopted: March 11, 1970.

Released: March 16, 1970.

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

[F.R. Doc. 70-3364; Filed, Mar. 19, 1970; 8:47 a.m.]

[5] While defendants are correct in their allegation that "connecting carriers" are specifically relieved of any tariff filing requirements by section 203(a) of the Act, they ignore the further language of the section. Section 203(a) provides in pertinent part that:

> Every common carrier * * * shall * * * file with the Commission * * * schedules showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communication between the different points on its own system, and between points on its own system and points on the system of its connecting carriers or points on the system of any other carrier subject to this Act when a through rate has been established * * *.

If, after hearing, it is found that defendants while "connecting carriers" are providing interstate communications service, the Commission may order the American Telephone and Telegraph Co. to file on behalf of defendants the charges and the classifications, practices, and regulations affecting such charges relative to said service. The Commission is aware that this remedy has not been requested by complainant nor has A.T. & T. been included herein as a defendant. However, the Commission pursuant to section 403 of the Act will consider such an order and A.T. & T. will be made a party to this proceeding.

[Docket No. 18811; FCC 70-267]

PRACTICES OF BROADCAST LICENSEES OR PERMITTEES

Order Instituting an Inquiry

In the matter of inquiry into alleged practices of broadcast licensees or permittees involving payments to employees or officers of networks to influence the grant of network affiliations.

1. The Commission has under consideration information indicating that certain broadcast licensees or permittees have made payments to employees or principals of networks for the purpose of obtaining affiliation with such networks. Any such payment may be in violation of law and, in any event, raises serious questions about the qualifications to remain licensees of parties engaging in such practices. As we stated in our Report on Chain Broadcasting (Docket 5060, page 48):[1]

> * * * two-way competition—among network organizations for station outlets and among stations for network affiliation—will insure the listening public a well-diversified, high quality program service.
>
> * * * * *
>
> A constantly improving service to the public requires that all the competitive elements within the industry should be preserved. The door of opportunity must be kept open for new networks. Competition among networks, among stations, and between stations and networks, all of which profoundly affect stations service, must be set free from artificial restraints.

2. *Therefore, it is ordered,* On the Commisison's own motion, pursuant to sections 403 and 409(1) of the Communications Act of 1934, as amended, that an inquiry is hereby instituted to determine whether any licensee or permittee (including any networks), or any principal, agent or employee thereof, has engaged in the above-described practice, and if so to what extent and under what circumstances.

3. *It is further ordered,* That the inquiry shall be a nonpublic proceeding unless and until the Commission orders that public sessions be held after determining that the public interest would be served thereby. Such nonpublic proceedings are in accord with the Commission's practices in investigations of the nature indicated above.

4. *It is Further ordered,* That, pursuant to section 5(d)(1) of the Communications Act of 1934, as amended, for the purpose of this inquiry authority is hereby delegated to the Chief Hearing Examiner of the Commission to require by subpoena the production of books, papers, correspondence, memoranda and other records, deemed relevant to the inquiry; to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and to perform such other duties in connection therewith as may be necessary or appropriate to the compilation of a complete record concerning the subject matter of this inquiry.

5. *It is further ordered,* That the Chief Hearing Examiner is specifically authorized to designate a Commission Hearing Examiner to exercise the authority conferred by this order; and to require witnesses to testify and produce evidence under authority of, and in the manner provided in, section 409(1) of the Communications Act of 1934, as amended, when requested to do so by Commission counsel.

6. *It is further ordered,* That the subpoena powers delegated by this order

[1] See also Sunbeam Television Corp. v. Federal Communications Commission, 243 F. 2d 26 at 28.

shall be exercised in accordance with §§ 1.331 through 1.340 of the Commission's rules. Motions to quash or limit subpoena shall be directed to the presiding examiner in accordance with § 1.334 of the rules. Applications for review of the presiding examiner's rulings on such motions may be filed with the Commission within ten (10) days after the issuance by the presiding examiner of such rulings.

7. *It is further ordered,* That the provisions of § 1.27 of the Commission's rules shall apply to the production of oral and documentary evidence under subpoena.

8. *It is further ordered,* That upon conclusion of the inquiry ordered herein, the presiding examiner shall certify the record thereof to the Commission for appropriate action.

Adopted: March 11, 1970.

Released: March 16, 1970.

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

[F.R. Doc. 70-3365; Filed, Mar 19, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

WILHELMSEN COMPANIES 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 the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, 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. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

The Wilhelmsen Companies, The Fearnley Companies, The Klaveness Companies, and Barber Lines A/S, notice of agreement filed by:

Seymour H. Kligler, Esquire, Herman Goldman, Attorneys and Counselors at Law, Equitable Building, 120 Broadway, New York, N.Y. 10004.

Agreement No. 9809-1, among the Wilhelmsen Companies, the Fearnley Companies, the Klaveness Companies and Barber Lines A/S, will amend the basic agreement by (1) deleting the word "passengers" where this word is found in Article 1 and Article 3 of Agreement No. 9809 thereby removing Barber Lines A/S's (the Charterer) authority to engage in the business of carrying passengers and (2) adding language to Article 2 of the basic agreement which will permit the Wilhelmsen Companies, the Fearnley Companies and the Klaveness Companies (the Owners) to engage in the carriage of passengers in the agreement trade.

Dated: March 17, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-3395; Filed, Mar. 19, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3566, etc.]

CITIES SERVICE OIL CO. ET AL.

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

MARCH 11, 1970.

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

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 3, 1970, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,
Secretary.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3566 C 12-22-69	Cities Service Oil Co.,[1] Post Office Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., acreage in Lea County, N. Mex.	10.0	14.65
G-4902 E 2-16-70	Houston Natural Gas Production Co. (successor to Pan American Petroleum Corp.), Post Office Box 1188, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., South Mineral Field, Bee County, Tex.	[2] 11.04070 [3] 12.04440 [4] [5] 13.04810	14.65 [6] ----
G-5114 E 2-16-70	Houston Natural Gas Production Co. (successor to Pan American Petroleum Corp.).	Transcontinental Gas Pipe Line Corp., Mineral Field, Bee County, Tex.	[2] 11.04070 [3] 12.04440 [4] [5] 13.04810	14.65 ---- ----
G-5716 D 2-13-70	Northern Natural Gas Producing Co., Post Office Box 1774, Houston, Tex. 77001.	Northern Natural Gas Co., Hugoton Field, Stevens County et al., Kans.	[8]	----
G-6668 E 11-5-69	Signal Oil and Gas Co., a division of The Signal Co., Inc., Operator (successor to Service Gas Products Co., Operator), 1010 Wilshire Blvd., Los Angeles, Calif. 90017.	Lone Star Gas Co., Aylesworth Plant, Marshall County, Okla. Lone Star Gas Co., West Hoover Plant, Garvin County, Okla.	[7] 12.0 [8] 14.0	14.65 14.65
G-8980 12-22-69 [9]	Westmore Drilling Co., Inc. (Operator), et al. (successor to D. W. Skinner (Operator), et al.).	Cities Service Gas Co., Boggs Field, Barber County, Kans.	[10] 13.0	14.65
G-12094 D 2-10-70	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Assigned	----

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI60-659 D 2-12-70	Transocean Oil, Inc., 1700 Houston Natural Gas Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc. Block 68 Field, West Cameron Bay Area, Offshore La.	(6)	
CI61-1772 C 2-24-70	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Lone Star Gas Co., S. E. Durant Field, Bryan County, Okla.	[11] 15.0	14.65
CI62-207 E 2-13-70	Ray Resources Corp., (successor to Falling Rock Co. (Operator) et al.) 630 Commerce Square, Charleston, W. Va. 25301.	United Fuel Gas Co., acreage in Kanawha County, W. Va.	[12] 18.0 [13] 25.0	15.325
CI62-825 D 2-20-70	Mobil Oil Corp. (Operator) et al.	El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex.	(14)	
CI63-234 D 2-13-70	do	Arkansas Louisiana Gas Co., Red Oak Area, Latimer, etal., Counties, Okla.	(14)	
CI63-921 E 2-11-70	Reed Oil Co. (successor to Harry R. Cronin, Jr., et al., d. b. a. H.R.C. Gas & Oil Associates).	Equitable Gas Co., Grant District, Wetzel County, W. Va.	25.0	15.325
CI63-1532 D 2-18-70	Shell Oil Co., 50 West 50th St., New York N.Y. 10020.	Panhandle Eastern Pipe Line Co., Iuka-Carmi Field, Pratt County, Kans.	Assigned	
CI64-949 E 2-5-70	Reserve Oil and Gas Co. (successor to Mohawk Petroleum Corp), 550 South Flower St., Los Angeles, Calif. 90017.	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., Desert Springs Field, Sweetwater County, Wyo.	14.5	14.65
CI65-1017 11-5-69 [15]	Sklar & Phillips Oil Co. (formerly Sklar Producing Co., Inc.), c/o John M. Shuey, attorney, Shuey, Smith & Carlton, Johnson Bldg., Shreveport, La. 71101.	Bluebonnet Gas Corp., South Bayou Mallet Field, Acadia Parish, La.	15.0	15.025
CI65-1044 11-5-69 [15]	Sklar & Phillips Oil Co. (Operator) et al. (formerly Sklar Producing Co., Inc. (Operator), agent for Albert Sklar et al.)	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Bell City Field, Calcasieu Parish, La.	17.75	15.025
CI66-53 D 2-16-70	Mobil Oil Corp	Northern Natural Gas Co., East Clark Area, Harper County, Okla.	(14)	
CI67-202 E 2-9-70	Expando Production Co. (successor to Texas Pacific Oil Co., Inc.), 607 Hamilton Bldg., Wichita Falls, Tex. 76301.	United Gas Pipe Line Co., Mission River and Refugio Heard Fields, Refugio County, Tex.	13.5	14.65
CI67-276 E 2-11-70	Reed Oil Co. (successor to Harry R. Cronin, Jr., et al., d.b.a. H.R.C. Gas & Oil Associates).	Equitable Gas Co., Grant District, Marion County, W. Va.	25.0	15.325
CI68-603 (CS66-121) C&D 1-26-70 [16]	MAPCO Production Co. (Operator) et al.,[17] 800 Oil Center Bldg., Tulsa, Okla. 74119.	Northern Natural Gas Co., Various Fields, Pecos, Crane, and Crockett Counties, Tex.	[18] 16.5 [19] 15.5435	14.65
CI68-1202 D 9-11-69 [20]	The Superior Oil Co., Post Office Box 1521, Houston, Tex. 77001.	Texas Gas Transmission Corp., North Maurice Field, Lafayette Parish, La.	Depleted	
CI68-1202 D 12-4-69 as amended 2-11-70 [20]	do	do	(21)	
CI68-1356 C 2-19-70	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Southern Natural Gas Co., Logansport Hosston Field, De Soto Parish, La.	13.82	15.025
CI69-197 C 2-16-70	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	28.0	15.325
CI69-197 C 2-24-70	do	do	28.0	15.325
CI69-342 11-5-69 [15]	Sklar & Phillips Oil Co. (formerly Sklar Producing Co., Inc.).	Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish. La.	13.103	15.025
CI69-394 C 12-24-69	Cities Service Oil Co.[1]	El Paso Natural Gas Co., acreage in Eddy County, N. Mex.	15.5	14.65
CI69-972 C 2-24-70	King Resources Co., 570 First National Bank Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Wilburton Field, Latimer County, Okla.	16.015	14.65
CI69-982 C 2-12-70	Jake L. Hamon, Post Office Box 663, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	[22] 15.0	14.65
CI69-1216 C 2-24-70	J. C. Baker & Son, Inc., et al., Drawer N, Gassaway, W. Va. 26624.	Equitable Gas Co., Collins Settlement District, Lewis County, W. Va.	27.0	15.325
CI70-263 C 1-14-70	Marathon Oil Co	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., East Rock Springs Area, Sweetwater County, Wyo.	[23] 15.0	14.65
CI70-556 A 12-16-69	Southwestern Natural Gas, Inc.,[1] 1915 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	Natural Gas Pipeline Co. of America, Indian Basin Field, Eddy County, N. Mex.	16.5	14.65
CI70-636 (CI70-684) C 1-27-70 as amended 2-20-70 [24]	White Shield Oil and Gas Corp., c/o Richard M. Reddecliff, attorney, Post Office Box 306, Buckhannon, W. Va. 26201.	Equitable Gas Co., Troy District, Gilmer County, W. Va.	27.0	15.325
CI70-704 (G-3113) F 1-29-70	Wood, McShane & Thams (successor to Humble Oil & Refining Co.), Post Office Box 968, Monahans, Tex. 79756.	El Paso Natural Gas Co., Langlie Mattix Field, Lea County, N. Mex.	[25] 16.882	14.65
CI70-708 A 2-2-70 [26]	Dixie M. McLane Trust, 2700 Republic National Bank Bldg., Dallas, Tex. 75201.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	13.0	15.025
CI70-719 A 2-6-70	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Block 42 Grand Isle Area, Grand Isle 41 Field, Offshore, La.	[27] 21.25	15.025
CI70-720 (CI65-1319) F 2-2-70	Arthur J. Wessely (Operator) (successor to CRA, Inc.), 2002 Republic Bank Bldg., Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., Mocane-Laverne Area, Beaver County, Okla.	[27] 17.0	14.65
CI70-721 A 2-6-70	Tarpon Oil Co., Suite 526, Eastern Airlines Bldg., 3700 Greenway Plaza Drive, Houston, Tex. 77027.	United Gas Pipe Line Co., acreage in Red River Parish, La.	18.75	15.025
CI70-722 (G-6170) F 1-30-70	Miss-Tex Oil Producers (successor to The Superior Oil Co. (Operator) et al.), 225 Petroleum Bldg., Jackson, Miss. 39201.	Southern Natural Gas Co., Gwinville, Field, Jefferson Davis County, Miss.	[28] 20.0	15.025
CI70-723 (G-3146) F 1-30-70	Miss-Tex Oil Producers (successor to Atlantic Richfield Co.).	do	[29] 19.0	15.025
CI70-724 (G-12094) F 1-30-70	Miss-Tex Oil Producers (successor to Mobil Oil Corp.).	do	[29] 15.0256	15.025
CI70-725 2-2-70 [30]	Mobile Oil Corp. (Operator) et al.	Natural Gas Pipeline Co. of America, Putnam-Oswego Unit, Dewey and Custer Counties, Okla.	(30)	
CI70-726 A 2-9-70	Imperial American Management Co., 200 Brooks Tower Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Fort Supply Field, Ellis County, Okla.	[27] 17.0	14.65
CI70-727 A 2-9-70	Murphy Oil Corp. et al., c/o H. Y. Rowe, attorney, 200 Jefferson Avenue, El Dorado, Ark. 71730.	Transcontinental Gas Pipe Line Corp., Blocks 200, 223, and 224, Ship Shoal Area, Gulf of Mexico, Offshore La.	21.25	15.025
CI70-728 A 2-10-70	Aikman Bros. Corp. (Operator) et al., 311 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Michigan Wisconsin Pipe Line Co., North Quinlan Field, Woodward County, Okla.	[27] 19.5	14.65
CI70-729 A 2-10-70	Sun Oil Co. et al., 1608 Walnut Street, Philadelphia, Pa. 19103.	Transcontinental Gas Pipe Line Corp. Egan-Hayes Unit, Egan Field, Acadia Parish, La.	[27] 21.50	15.025
CI70-730 (CI63-1435) F 2-9-70	Occidental Petroleum Corp. (successor to Tenneco Oil Co.), 5000 Stockdale Highway, Bakersfield, Calif. 93309.	Arkansas Louisiana Gas Co., North Carter Field, Beckham County, Okla.	[29] 15.0	14.65
CI70-731 B 2-10-70	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	Kansas-Nebraska Natural Gas Co., Inc., Camrick Field, Beaver County, Okla.	Declined in pressure	
CI70-732 A 2-11-70	Globe Natural Gas Co., Post Office Box 786, Charleston, W. Va. 25323.	Equitable Gas Co., Otter District, Braxton County, W. Va.	27.0	15.325

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI70-733 (G-14811) F 2-11-70	Duer Wagner & Co. (Operator) et al. (successor to John B. Rich, agent for trusts U/D Donaldson Brown (Operator) et al.), 909 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Transcontinental Gas Pipe Line Corp., Orcones Field, Duval County, Tex.	13.0	14.65
CI70-734 (CI63-548) F 2-13-70	Perryton Feeders, Inc. (successor to Phillips Petroleum Co.), Post Office Box 623, Perryton, Tex. 79070.	Northern Natural Gas Co., Ellis Ranch (Cleveland) Field, Ochiltree County, Tex.	[31] 18.0675	14.65
CI70-735 B 2-12-70	Cecil Meadows Enterprises	United Fuel Gas Co., Rocky Fork Field, Kanawha County, W. Va.	Depleted	
CI70-736 A 2-16-70	Ashland Oil & Refining Co	Arkansas Louisiana Gas Co., Northeast Hillsdale Field, Garfield County, Okla.	[32] 15.0	14.65
CI70-737 A 2-16-70	First National Oil, Inc., 23 East 11th, Park Plaza, Liberal, Kans. 67901.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Mocane Field, Beaver County, Okla.	[27] 17.0	14.65
CI70-738 A 2-16-70	Berry and Steward et al., Post Office Box 3162, Station "A", Fort Smith, Ark. 72901.	Arkansas Louisiana Gas Co., Shady Point Field, Le Flore County, Okla.	15.0	14.65
CI70-739 A 2-16-70	Jones & Pellow Oil Co., 101 Northeast 26th St., Oklahoma City, Okla. 73105.	Northern Natural Gas Co., acreage in Woodward County, Okla.	[27] 19.5	14.65
CI70-740 A 2-16-70	National Helium Corp., Post Office Box 1008, Liberal, Kans. 67901.	Panhandle Eastern Pipe Line Co., Avard Northwest Field, Woods County, Okla.	17.0	14.65
CI70-741 A 2-16-70	Shenandoah Oil Corp. (Operator) et al., 1018 Commerce Bldg., Fort Worth, Tex. 76102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., acreage in St. Mary Parish, La.	[27] 21.25	15.025
CI70-742 B 2-16-70	Mobil Oil Corp	Montana-Dakota Utilities Co., Sand Creek Field, Washakie County, Wyo.	Depleted	
CI70-743 A 2-17-70	Garvin & Summers et al., 4515 North Santa Fe, Oklahoma City, Okla. 73118.	Consolidated Gas Supply Corp., Salt Lick District, Braxton County, W. Va.	27.0	15.325
CI70-744 A 2-17-70	do	do	27.0	15.325
CI70-745 A 2-16-70	King Resources Co., 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	16.0	14.65
CI70-746 B 2-17-70	J. M. Huber Corp., 2300 West Loop, Houston, Tex. 77027.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., North Garwood Field, Colorado County, Tex.	Depleted	
CI70-747 A 2-18-70	Ferrell L. Prior, et al., Post Office Box 417, Belpre, Ohio 45714.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	27.0	15.325
CI70-748 A 2-18-70	Allegheny Land & Mineral Co., 318 Professional Bldg., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., acreage in Lewis County, W. Va.	27.0	15.325
CI70-749 A 2-18-70	Ferrell L. Prior	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	27.0	15.325
CI70-750 A 2-19-70	Sohio Petroleum Co., 970 First National Office Bldg., Oklahoma City, Okla. 73102.	Transcontinental Gas Pipe Line Corp., Egan-Hayes Unit, Egan Field, Acadia Parish, La.	21.50	15.025
CI70-751 A 2-16-70	King Resources Co	Natural Gas Pipeline Co. of America, North Custer City Field, Custer County, Okla.	17.0	14.65
CI70-752 A 2-16-70	Texas International Petroleum Corp. (successor to Sunset International Petroleum Corp.), 2625 Line Avenue, Shreveport, La. 71104.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	12.0	15.025
CI70-753 B 2-19-70	Sun Oil Co	Texas Eastern Transmission Corp., Holzmark-Wilcox Field, Bee County, Tex.	Depleted	
CI70-755 B 2-24-70	Har-Ken Oil Co. (Operator) et al., Post Office Box 616, Owensboro, Ky. 42301.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	[33]	
CI70-756 A 2-16-70	Leben Drilling, Inc., 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	[27] 17.0	14.65
CI70-757 (CI64-670) F 2-16-70 as amended 2-25-70	Leben Drilling, Inc. (Operator) et al (successor to Marathon Oil Co.).	Arkansas Louisiana Gas Co., Acreage in Pittsburg County, Okla.	[34] 16.015	14.65
CI70-758 A 2-24-70	Ferguson Oil Co., Inc., Suite 1115, 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Acreage in Le Flore County, Okla.	16.0	14.65
CI70-759 B 2-24-70	Behring's Production Co., Inc., c/o D. R. Sartor, Jr., Post Office Box 1663, Monroe, La. 71201.	United Gas Pipe Line Co., Dehlco Field, Richland Parish, La.	Uneconomical	
CI70-760 A 2-24-70	Allerton Miller & Union Drilling, Inc., agent, c/o K.R. Ranson II, secretary, Post Office Box 281, Washington, Pa. 15301.	Equitable Gas Co., Holly and Salt Lick Districts, Braxton County, W. Va.	[35] 27.104	15.325
CI70-761 A 2-16-70	Crown Petroleum, Inc., 409 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Michigan Wisconsin Pipe Line Co., Mocane-Laverne Field, Beaver County, Okla.	17.0	14.65
CI70-762 A 2-25-70	Professional Oil Management, Inc., Post Office Box 374, Ann Arbor, Mich. 48107.	Equitable Gas Co., Buckhannon and Meade Districts, Upshur County and Skin Creek District, Lewis County, W. Va.	27.0	15.325
CI70-763 A 2-25-70	R & S Gas & Oil, Inc., c/o Howell and Paterno, Kanawha Valley Bldg., Charleston, W.Va. 25301.	United Fuel Gas Co., Ravenswood District, Jackson County, W.Va.	28.0	15.325

See footnotes at end of table.

[1] Applicant has agreed to accept permanent authorization conditioned as Opinions Nos. 468 and 468-A.
[2] For gas which does not require compression or for gas compressed by buyer.
[3] For gas presently being compressed by buyer, the facilities for the operation and maintenance of which seller may elect to take over.
[4] For gas requiring compression, the facilities for which seller elects to maintain and operate.
[5] All prices subject to a reduction of 0.21931 cent per Mcf for gas dehydrated by purchaser.
[6] Deletes nonproductive acreage.
[7] An increase in rate to 13 cents per Mcf has been suspended in Docket No. RI69-712.
[8] An increase in rate to 15 cents per Mcf has been suspended in Docket No. RI69-712.
[9] Amendment to certificate filed to reflect change in operator. No change in working interest is involved.
[10] Rate in effect subject to refund in Docket No. RI65-389; prior rate effective subject to refund in Docket No. G-20208.
[11] Applicant states its willingness to accept certificate at the rate of 15 cents per Mcf.
[12] For wells drilled before July 1961.
[13] For wells drilled after July 1961. Price includes 2 cents gathering charge.
[14] Deletes acreage due to expiration or cancellation of nonproducing leases.
[15] Amendment to certificate filed to reflect change in corporate name.
[16] Adds acreage and deletes expired lease. In addition, amendment also adds interest of Neleh Gas & Oil Corp., a signatory party to subject contract, who had been selling its gas under its small producer certificate in Docket No. CS66-121. Neleh has requested by motion filed Jan. 22, 1970, that its small producer certificate be terminated.
[17] Applicant has expressed willingness to accept permanent authorization consistent with the provisions of Opinions Nos. 468 and 468-A.
[18] Residue from gas-well gas.
[19] Residue not from gas-well gas.
[20] No permanent certificate issued; temporary authorization granted only.
[21] Leases expired or were terminated by their own terms for lack of production.
[22] Contract provides for rate of 16 cents per Mcf; however, applicant states its willingness to accept permanen authorization at 15 cents per Mcf.
[23] Subject to upward and downward B.t.u. adjustment (not to exceed 2.2 cents per Mcf upward adjustment).
[24] Application was erroneously assigned Docket No. CI70-684 as an initial service. Docket No. CI70-684 is canceled and application will be processed as a petition to amend certificate in Docket No. CI70-636.
[25] Rate in effect subject to refund in Docket No. RI69-51. An increase in rate to 17.9117 cents per Mcf has been suspended in Docket No. RI70-869.
[26] Application was previously noticed Feb. 19, 1970, in Docket No. G-6404 et al., at a rate of 14 cents per Mcf. By letter filed Feb. 17, 1970, applicant agreed to accept a rate of 13 cents per Mcf for the subject sale in lieu of the original proposed 14 cent rate.
[27] Subject to upward and downward B.t.u. adjustment.
[28] Subject to adjustment for compression and gathering charges.
[29] Subject to reduction for compression charges.
[30] This application is for a transaction in which Natural will deliver up to 24,000,000 Mcf of gas to applicant for use in pressure maintenance operations, which gas will be returned to Natural upon completion of such operations. Applicant will pay Natural a monthly handling charge of 1 cent per Mcf plus a monthly rental charge.
[31] Rate in effect subject to refund in Docket No. RI69-418.
[32] Contract provices for rate of 17 cents per Mcf, plus B.t.u. adjustment; however, applicant states its willingness to accept certificate at 15 cents per Mcf, plus B.t.u. adjustment.
[33] Field converted to underground gas storage field.
[34] Rate in effect subject to refund in Docket No. RI69-109.

[3] Contract provides for rates of 27.104 cents at 60° F. (equivalent to 27 cents at 62° F.) for gas above the Onondaga Formation and 28.108 cents at 60° F. (equivalent to 28 cents at 62° F.) for gas from the Onondaga Formation and below; however, applicant proposes rate of 27.104 cents.

[F.R. Doc. 70-3269; Filed, Mar. 19, 1970; 8:45 a.m.]

[Docket No. RI70-1331 etc.]

GULF OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MARCH 11, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 27, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1331	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	287	3	Lone Star Gas Co. (North Dibble Field, McClain County, Okla.) (Oklahoma "Other" Area).	$2,950	2-9-70	[2] 3-12-70	8-12-70	[2] 15.0	[2 4 5] 16.0	
RI70-1332	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	29	6	Northern Natural Gas Co. (Clark County, Kans.).	388	2-9-70	[2] 3-12-70	8-12-70	[2] 15.0	[2 4 6] 16.0	RI64-286.
	do	45	4	Arkansas Louisiana Gas Co. (West Marlow Field, Stephens County, Okla.) (Oklahoma "Other" Area).	56	2-9-70	[2] 3-12-70	8-12-70	[6] 13.0	[2 4 6] 14.0	RI63-377.
RI70-1333	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	460	2	Arkansas Louisiana Gas Co. (Northeast Hillsdale Field, Grant and Custer Counties, Okla.) (Oklahoma "Other" Area).	8,907	2-10-70	[2] 3-13-70	8-13-70	[8 9] 16.125	[6 7 8 9] 18.275	
RI70-1334	Bruce Anderson et al., 600 Southwest Tower, Houston, Tex. 77002.	2	[10] 4	Colorado Interstate Gas Co. (Greenwood Field, Morton County, Kans.).	1,182	2-11-70	[2] 3-14-70	8-14-70	[2] 16.0	[2 4 5] 18.0	G-20454.
RI70-1335	Phillips Petroleum Co., Bartlesville, Okla. 74003.	58	9	Northern Natural Gas Co. (Panhandle Field, Carson County, Tex.) (RR. District No. 10).	155	2-9-70	[11] 3-12-70	8-12-70	[2] 12.0768	[2 4 5] 13.1157	RI60-277.
	do	314	1	Panhandle Eastern Pipe Line Co. (East Hansford Field, Hansford County, Tex.) (RR. District No. 10).	73	2-9-70	[11] 3-12-70	8-12-70	16.0	[2 4] 18.045	
	do	401	4	Panhandle Eastern Pipe Line Co. (Anadarko Basin Area, Beaver County, Okla.) (Panhandle Area).	53	2-9-70	[11] 3-12-70	8-12-70	[13 14] 18.938	[4 12 13 14] 20.609	
	do	414	5	Panhandle Eastern Pipe Line Co. (Anadarko Basin Area, Beaver County, Okla.) (Panhandle Area).	331	2-9-70	[11] 3-12-70	8-12-70	[13 14] 18.7510	[4 12 13 14] 20.4055	RI68-61.
	do	448	4	Northern Natural Gas Co. (Catesby Field, Ellis and Woodward Counties, Okla.) (Panhandle Area).	4,036	2-9-70	[11] 3-12-70	8-12-70	[13 15] 19.057	[3 4 13 15] 20.178	
RI70-1336	Phillips Petroleum Co. (Operator) et al.	351	6	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	4,770	2-9-70	[11] 3-12-70	8-12-70	[13 17] 17.96	[4 13 16 17] 19.46	
	do	446	2	Panhandle Eastern Pipe Line Co. (Aledo Field, Custer and Dewey Counties, Okla.) (Oklahoma "Other" Area).	243,090	2-12-70	[11] 3-15-70	8-15-70	[13] 15.0	[4 13 18] 19.0	
RI70-1337	Sohio Petroleum Co. (Operator) et al., 970 First National Office Bldg., Oklahoma City, Okla. 73102.	45	44	El Paso Natural Gas Co. (Spraberry Area, Midland, Upton, Reagan, and Glasscock Counties, Tex.) (RR. Districts Nos. 7-C and 8) (Permian Basin Area).	12,751	2-9-70	[2] 3-12-70	8-12-70	18.2430	[2 4] 19.3278	RI69-650.
	do	91	23	do	498	2-9-70	[2] 3-12-70	8-12-70	18.2430	[2 4] 19.3278	RI69-686.
	do	137	7	El Paso Natural Gas Co. (Ingham Devonian Field, Crockett County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	878	2-12-70	[2] 3-15-70	8-15-70	14.50	[19 20] 17.8019	

See footnotes at end of table.

APPENDIX A—Continued

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.
	....do	1	8	Tennessee Gas Pipeline Co., a a division of Tenneco Inc. (South Deckers Prairie Area, Harris and Montgomery Counties, Tex.) (RR. District No. 3).	$1,333	2- 9-70	[2] 3-12-70	8-12-70	15.6	[3 4] 16.66225	RI66-278.
RI70-1338	Sohio Petroleum Co	73	9	El Paso Natural Gas Co., (Spraberry Area, Midland, Upton, Reagan, and Glasscock Counties, Tex.) (RR. District Nos. 7-C and 8) (Permian Basin Area).	1,266	2- 9-70	[2] 3-12-70	8-12-70	18.2430	[3 4] 19.3278	RI69-662.
	....do	74	12	....do	56	2- 9-70	[2] 3-12-70	8-12-70	18.2430	[3 4] 19.3278	RI69-663.
	....do	4	8	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Los Indios Field, Hidalgo County, Tex.) (RR. District No. 4).	3,812	2- 9-70	[2] 3-12-70	8-12-70	15.6585	[3 4] 16.66225	RI66-276.
RI70-1339	Sohio Petroleum Co. et al.	95	20	El Paso Natural Gas Co. (Spraberry Area, Midland, Upton, Reagan, and Glasscock Counties, Tex.) (RR. District Nos. 7-C and 8) (Permian Basin Area).	74	2- 9-70	[2] 3-12-70	8-12-70	18.2430	[3 4] 19.3278	RI69-685.
RI70-1340	Standard Oil Co. of Texas, a division of Chevron Oil Co.	43	4	El Paso Natural Gas Co. (Wilshire Devonian Field, Upton County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	12,747	2-13-70	[3] 3-16-70	8-16-70	18.0	[3 4] 19.0712	RI69-684.
	....do	8	13	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin Area).	715	2-13-70	[7] 3-16-70	8-16-70	[22] 16.88	[21 22] 17.3908	RI69-684.
	....do	9	11	El Paso Natural Gas Co. (Pecos Valley Fusselman Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	230	2-13-70	[3] 3-16-70	8-16-70	16.72	[4 21] 17.0	RI69-684.
	....do	11	10	El Paso Natural Gas Co. (Wilshire Ellenburger Field, Upton County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	968	2-13-70	[2] 3-16-70	8-16-70	15.20	[3 4] 16.2760	RI69-684.
	....do	13	5	El Paso Natural Gas Co. (Puckett Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	222,820	2-13-70	[3] 3-16-70	8-16-70	11.9346	[4 23] 13.0487	RI70-519.
	....do	35	8	El Paso Natural Gas Co. (North Puckett Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	5,134	2-13-70	[2] 3-16-70	8-16-70	18.24	[3 4] 19.3277	RI69-684.
RI70-1341	Standard Oil Co. of Texas, a division of Chevron Oil Co. (Operator).	7	14	El Paso Natural Gas Co. (Kelly Snyder Field (Plant) Scurry County, Tex.) (RR. District No. 8-A) (Permian Basin Area).	28,764	2-13-70	[2] 3-16-70	8-16-70	17.11	[3 4] 18.1552	RI69-742.
RI70-1342	Continental Oil Co. (Operator) et al., Post Office Box 2197, Houston, Tex. 77001.	248	13	Texas Eastern Transmission Corp. (Big Hill Field, Jefferson County, Tex.) (RR. District No. 3).	2,180	2- 9-70	[2] 3-12-70	8-12-70	15.66825	[3 4] 16.672625	RI64-558.
RI70-1343	Expando Production Co. (Operator) et al.,[29] 607 Hamilton Bldg., Wichita Falls, Tex. 76301.	7	[24 4]	United Gas Pipe Line Co.	----------	2- 9-70	3-12-70	Accepted	----------	----------	
		7	5	(Mission River et al., Fields, Refugio County, Tex.) (RR. District No. 2).	[25]	2- 9-70	3-15-70	8-15-70	13.5	[4 26] 18.0	
RI70-1344	Gulf Oil Corp. (Operator).	241	9	Natural Gas Pipeline Co. of America (Escobas and Martinez Fields, Jim Hogg and Zapata Counties, Tex.) (RR. District No. 4).	10,038	2- 9-70	[2] 3-12-70	8-12-70	18.5694	[4 27] 19.0713	RI69-239.
RI70-1345	Cattle-Land Oil Co. (Operator) et al., Post Office Box 2411, Corpus Christi, Tex. 78403.	2	4	South Texas Natural Gas Gathering Co. (Arkansas City Field, Starr County, Tex.) (RR. District No. 4).	3,700	2-12-70	[2] 3-15-70	8-15-70	14.5	[4 28] 16.561875	

[2] The stated effective date is the effective date requested by respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Buyer deducts 0.5 cent from prices shown for dehydration.
[6] Subject to a downward B.t.u. adjustment.
[7] Filing from certificated rate to initial contract rate.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Includes base rates of 15 cents before increase and 17 cents after increase plus B.t.u. adjustment.
[10] Notice of change includes Austin unit and Interstate-C unit.
[11] The stated effective date is the first day after expiration of the statutory notice.
[12] "Fractured" rate increase. Contractually due base rate of 19.5 cents.
[13] Base rate subject to upward and downward B.t.u. adjustment.
[14] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and 18.5 cents plus upward B.t.u. adjustment after increase.
[15] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and 18 cents plus upward B.t.u. adjustment after increase.
[16] "Fractured" rate increase. Respondent contractually due base rate of 22 cents per Mcf.
[17] Includes 0.96 cent upward B.t.u. adjustment.
[18] Filing from certificated rate to initial contract rate.
[19] Increase from applicable area ceiling rate to contract rate.
[20] Pressure base is 15.025 p.s.i.a.
[21] Increase to fractured rate. Contract rate is 17.5 cents plus tax reimbursement.
[22] Subject to compression charge by buyer of 0.4467 cent if delivery pressure falls below 600 p.s.i.g.
[23] Increase from applicable area ceiling rate plus tax reimbursement to contract rate.
[24] Amendment dated Jan. 12, 1970, which provides for the proposed rate increase.
[25] No production at present time.
[26] Renegotiated rate increase.
[27] From factured rate to contractually provided for periodic plus applicable tax reimbursement.
[28] Two-step periodic rate increase.
[29] Successor in interest to Joseph E. Seagram & Sons, Inc., doing business as Texas Pacific Oil Co. (Rate Schedule No. 89).

Phillips Petroleum Co. and Phillips Petroleum Co. (Operator) et al. (both referred to herein as Phillips), request that their proposed rate increases be permitted to become effective as of February 9, 1970. Cattle-Land Oil Co. (Operator) et al. (Cattle-Land), request an effective date of March 1, 1970, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Phillips and Cattle-Land's rate filings and such requests are denied.

Concurrently with the filing of its rate increase, Expando Production Co. (Operator) et al. (Expando), submitted a contract amendment dated January 12, 1970, designated as Supplement No. 4 to Expando's FPC Gas Rate Schedule No. 7, which provides the basis for their proposed rate increase. We believe that it would be in the public interest to accept for filing Expando's aforementioned supplement to become effective as of March 12, 1970, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as ordered herein.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR 2.56).

[F.R. Doc. 70–3276; Filed, Mar. 19, 1970; 8:45 a.m.]

[Docket No. RI70–1346 etc.]

GULF OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MARCH 11, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 27, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70–1346	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	149	5	El Paso Natural Gas Co. (Flodine Park Field, Montezuma County, Colo., and Aneth Field, San Juan County, Utah).	$1,075 560	2–16–70	[2] 3–19–70	8–19–70	[5] 17.70 [6] 15.0	[3] [4] 22.0 [3] [4] 22.0	
	do	403	3	Northern Natural Gas Co., (Bass Devonian Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	3,816	2–9–70	[2] 3–12–70	8–12–70	15.80	[7] [8] 16.86	
	do	147	5	United Gas Pipeline Co. (Ada Area, Bienville Parish, La.) (North Louisiana).	2,185	2–16–70	[2] 3–19–70	8–19–70	[10] 18.25	[4] [7] [9] 23.00	
	do	153	3	Texas Gas Transmission Corp. (North Dubberly Area, Webster Parish, La). (North Louisiana).	60	2–16–70	[2] 3–19–70	8–19–70	[11] [12] 18.25	[4] [7] [11] [12] 19.75	
	do	203	3	Texas Gas Transmission Corp. (Calhoun Field, Lincoln and Ouchita Parishes, La.) (North Louisiana).	555	2–16–70	[2] 3–19–70	8–19–70	[11] [12] 18.75	[4] [7] [11] [12] 20.25	
	do	311	3	Texas Gas Transmission Corp. (West Lisbon Field, Claiborne Parish, La.) (North Louisiana).	180	2–16–70	[2] 3–19–70	8–19–70	[11] [12] 18.25	[4] [7] [11] [12] 19.75	
RI69–465	Tenneco Oil Co. (Operator) et al.	45 45	[13] 5 6	El Paso Natural Gas Co. (Totah Galup and West Huerfano (Basin Dakota) Fields, San Juan County, N. Mex.) (San Juan Basin Area).	*Decrease* 198	2–12–70 2–12–70	[14] 2–12–70 [14] 2–12–70	Accepted [15] Accepted	[17] 15.2924	*Decrease* [4] [16] 12.0	RI69–465
RI70–1347	Continental Oil Co. (Operator) et al.	104	17	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin Area).	[18]	2–9–70	[2] 3–12–70	8–12–70	[19] 16.8793	[7] [8] [10] 17.9023	RI69–653.
	do	145	10	El Paso Natural Gas Co., (Wemac Field, Andrews County, Tex.) (RR. District No. 8) (Permian Basin Area).	1,017	2–9–70	[2] 3–12–70	8–12–70	15.2588	[7] [8] 16.2760	RI69–655.
	do	109	15	El Paso Natural Gas Co., (Various Fields, Lea County, N. Mex.) (Permian Basin Area).	21,994	2–16–70	[2] 3–19–70	8–19–70	[19] 16.8793	[7] [8] [19] 17.9023	RI69–653.
RI70–1348	Continental Oil Co.	253	10	El Paso Natural Gas Co., (Spraberry Field, Upton County, Tex.) (RR. District No. 7–C) (Permian Basin Area).	98	2–9–70	[2] 3–12–70	8–12–70	18.3105	[7] [8] 19.3278	RI69–655.
	do	311	8	El Paso Natural Gas Co., (Spraberry Field, Glasscock County, Tex.) (RR. District No. 8) (Permian Basin Area).	9	2–9–70	[2] 3–12–70	8–12–70	18.3105	[7] [8] 19.3278	RI69–661.
	do	312	10	El Paso Natural Gas Co., (Spraberry Field, Glasscock County, Tex.) (RR. District No. 8) (Permian Basin Area).	3	2–9–70	[2] 3–12–70	8–12–70	18.3105	[7] [8] 19.3278	RI69–661.

See footnotes at end of table.

APPENDIX A—Continued

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.
RI70-1349..	Jack L. Burrell (Operator) et al.	1	7	Transwestern Pipeline Co., (Waha Field, Pecos and Reeves Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	$12,053	2-13-70	[14] 3-16-70	8-16-70	16.472	[2] [5] 18.079	RI70-762.
	....do....	2	8	Transwestern Pipeline Co., (Waha Field, Pecos and Reeves Counties, Tex.) (RR. District No. 8) (Permian Basin Area).	12,053	2-13-70	[14] 3-16-70	8-16-70	16.472	[2] [5] 18.079	RI70-762.
RI70-1350..	Union Texas Petroleum, a division of Allied Chemical Corp. et al., Post Office Box 2120, Houston, Tex. 77001.	60	4	Natural Gas Pipeline Co. of America (North Custer City Field, Custer County, Okla.) (Oklahoma "Other" Area).	26,868	2-13-70	[2] 3-16-70	8-16-70	[20] 15.0	[7] [8] [20] 22.59	
RI70-1351..	Crystal Oil and Land Co., 600 Ray P. Oden Bldg., Shreveport, La. 71101.	9	[21] 11	United Gas Pipe Line Co. (Simsboro Field, Lincoln Parish, La.) (North Louisiana Area).	.....	2-13-70	[14] 3-16-70	Accepted	.....	.....	
		9	12		6,250	2-13-70	[14] 3-16-70	8-16-70	[11] 21.75	[4] [7] [9] 23.0	RI68-363.
RI70-1352..	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, Tex. 76107.	104	[22] 3	Panhandle Eastern Pipe Line Co. (State Line Field, Woods County, Okla.) (Oklahoma "Other" Area).	22,995	2-12-70	[2] 3-15-70	8-15-70	[20] [23] 15.750	[8] [20] [23] [24] 17.850	
RI70-1353..	Maguire Oil Co. (Operator) et al., 4200 First National Bank Bldg., Dallas, Tex. 75202.	6	5	Natural Gas Pipeline Co. of America (Boonsville (Bend Conglomerate Gas) Field, Jack County, Tex.) (RR. District No. 9).	306	2-13-70	[14] 3-16-70	8-16-70	[20] [26] 15.30	[8] [20] [26] 16.32	RI69-136.

[2] The stated effective date is the effective date requested by respondent.
[3] Increase to contract rate.
[4] Pressure base is 15.025 p.s.i.a.
[5] Utah sales.
[6] Colorado sales.
[7] Periodic rate increase.
[8] Pressure base is 14.65 p.s.i.a.
[9] Includes 1.5 cent tax reimbursement.
[10] Settlement rate in Docket No. G-9520 et al., issued Apr. 25, 1963. Moratorium on increased rate filing expired Apr. 1, 1965.
[11] Includes 1.75 cent tax reimbursement.
[12] Subject to a downward B.t.u. adjustment.
[13] Letter Agreement—provides for connection of Glen H. Callow No. 11 well to 250 p.s.i.g. gathering system in lieu of high-pressure system and eliminates the 1 cent minimum guarantee for liquids and reduces the contract price by 1 cent for sales from the well.
[14] The stated effective date is the first day after expiration of the statutory notice.
[15] Renegotiated rate decrease is accepted for filing subject to the existing rate proceeding in Docket No. RI69-465.
[16] Renegotiated rate decrease.
[17] Includes 1 cent minimum guarantee for liquids.
[18] Less than $1.00 annually.
[19] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[20] Subject to upward and downward B.t.u. adjustment.
[21] Agreement dated Jan. 19, 1970, which provides for decrease in tax reimbursement from 1.75 cents to 1.5 cents.
[22] Applicable only to original acreage under contract.
[23] Includes base price of 15 cents before increase and 17 cents after increase, plus upward B.t.u. adjustment.
[24] Filing from initial certificated rate to initial contract rate.
[25] Includes base price of 15 cents before increase and 16 cents after, plus upward B.t.u. adjustment.

Jack L. Burrell (Operator) et al., request that their proposed rate increases be permitted to become effective as of February 1, 1970. Crystal Oil and Land Co., requests an effective date of February 9, 1970, and Maguire Oil Co. (Operator) et al., request an effective date of March 1, 1970, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Two of Continental Oil Co.'s (Operator) et al. (Continental) (Supplement Nos. 17 and 15 to Continental's FPC Gas Rate Schedule Nos. 104 and 109, respectively) proposed rate filings reflect partial reimbursement for the full 2.55 percent New Mexico emergency school tax. The buyer, El Paso Natural Gas Co. (El Paso), in accordance with its policy of protesting tax filings proposing reimbursement for the New Mexico emergency school tax in excess of 0.55 percent, is expected to file a protest to these rate increases. El Paso questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico legislature effected a higher rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, the hearing provided for herein for Continental's rate filings shall concern itself with the contractual basis for such rate filings, as well as the statutory lawfulness of the proposed increased rates and charges.

Concurrently with their rate filings, Tenneco Oil Co. (Tenneco), submitted a letter agreement designated as Supplement No. 5 to Tenneco's FPC Gas Rate Schedule No. 45, and Crystal Oil and Land Co. (Crystal), submitted an agreement dated January 19, 1970, designated as Supplement No. 11 to Crystal's FPC Gas Rate Schedule No. 9, which provide the basis for their proposed rate decrease (Tenneco) and rate increase (Crystal). We believe that it would be in the public interest to accept for filing Tenneco and Crystal's supplements to become effective as of February 12, 1970 (Tenneco), and March 16, 1970 (Crystal), the expiration dates of the statutory notice, but not the proposed rates contained therein which are suspended as ordered herein.

Tenneco has submitted a proposed renegotiated rate decrease, from 15.2924 cents to 12 cents per Mcf, designated as Supplement No. 6 to Tenneco's FPC Gas Rate Schedule No. 45, for a sale in the San Juan Basin Area. We believe that it would be in the public interest to accept for filing Tenneco's proposed rate decrease effective as of February 12, 1970, the proposed effective date, subject to the existing rate suspension proceeding in Docket No. RI69-465.

The rate increase filed by Gulf Oil Corp. (Gulf) (Supplement No. 5 to Gulf's FPC Gas Rate Schedule No. 149), is for a sale to El Paso Natural Gas Co. from the Aneth Area of Utah where no formal guideline prices have been announced by the Commission for the Aneth Area. Since the proposed rate it equal to rates now under suspension for similar sales in the Aneth Area, we conclude that Gulf's proposed rate increase should be suspended for 5 months from March 19, 1970, the proposed effective date.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56) with the exception of the rate increase filed by Gulf in the Aneth Area where no formal guideline prices have been announced by the Commission.

[F.R. Doc. 70-3277; Filed, Mar. 19, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

[Reg. Z]

UTAH

Application for Exemption From Truth in Lending Act

Pursuant to 12 CFR 226.12 (Supplement II to Reg. Z) the State of Utah has applied to the Board of Governors for an exemption from the Truth in Lending Act (title I of the Consumer Credit Protection Act, 15 U.S.C. 1601ff) on the grounds that under the laws of the State of Utah credit transactions within that State are subject to requirements substantially similar to those imposed under chapter 2 of the Truth in Lending Act and that there is adequate provision for enforcement of such requirements.

The application is available for inspection at the Federal Reserve Building in Washington and at the Federal Reserve Bank of San Francisco.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 20, 1970. Under the Board's rules regarding availability of information (12 CFR 261), such materials will be available for inspection and copying unless the person submitting the material requests that it be considered confidential.

Board of Governors, March 11, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3340; Filed, Mar. 19, 1970; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MEXICO

Entry or Withdrawal From Warehouse for Consumption

MARCH 17, 1970.

On May 3, 1969, there was published in the FEDERAL REGISTER (34 F.R. 7311) a letter dated April 28, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in Mexico and exported to the United States during the 12-month period beginning May 1, 1969. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to the bilateral cotton textile agreement of June 2, 1967, between the Governments of the United States and Mexico, which provides that within the aggregate limit, applicable group limits, and applicable limits on certain categories may be exceeded by not more than five (5) percent. The aforementioned letter also provided that any such adjustment in the levels of restraint would be made to the Commissioner of Customs by letter from the Chairman of the Interagency Textile Administrative Committee.

Accordingly, at the request of the Government of Mexico and pursuant to the bilateral agreement referred to above, there is published below a letter of March 17, 1970, from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs adjusting the levels of restraint applicable to cotton textile products in Group III (Categories 28 through 64) and Category 63 for the 12-month period which began on May 1, 1969.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE
INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

MARCH 17, 1970.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: On April 28, 1969, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Mexico, and exported to the United States on or after May 1, 1969, in excess of the designated levels of restraint. The Chairman further advised you that in the event that there were any adjustments[1] in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of June 2, 1967, between the Governments of the United States and Mexico, in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned directive of April 28, 1969, the levels of restraint provided in that directive for cotton textile products in Categories 28 through 64 and Category 63, produced or manufactured in Mexico and exported from Mexico to the United States for the period beginning May 1, 1969, and extending through April 30, 1970, are hereby amended as follows, to be effective as soon as possible:

Categories		*Amended 12-month levels of restraint*[2]
28 through 64	square yards	2,546,775
63	pounds	127,339

[2] These levels have not been adjusted to reflect entries made on or after May 1, 1969.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. IV, 1965-68). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[F.R. Doc. 70-3393; Filed, Mar. 19, 1970; 8:49 a.m.]

[1] The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of June 2, 1967, between the Governments of the United States and Mexico which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; and for administrative arrangements.

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MALAYSIA

Entry or Withdrawal From Warehouse for Consumption

MARCH 3, 1970.

On February 27, 1970, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Malaysia that it was renewing for an additional 12-month period beginning February 28, 1970, and extending through February 27, 1971, the restraints on imports to the United States of cotton textiles and cotton textile products in Categories 49 and 55, produced or manufactured in Malaysia. Pursuant to Annex B, paragraph 2, of the Long-Term Arrangement the levels of restraint for this 12-month period are 5 percent greater than the levels of restraint applicable to these categories for the preceding 12-month period.

There is published below a letter of February 28, 1970, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textiles and cotton textile products in Categories 49 and 55 produced or manufactured in Malaysia which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning February 28, 1970, be limited to the designated levels.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

FEBRUARY 28, 1970.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective February 28, 1970, and for the 12-month period extending through February 27, 1971, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 49 and 55, produced or manufactured in Malaysia, in excess of the following designated levels of restraint:

Category		*12-Month Level of Restraint*
49	dozen	1,785
55	do	17,325

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 49 and 55, produced or manufactured in Malaysia, which have been exported to the United States from Malaysia prior to February 28, 1970, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period February 28, 1969, through February 27, 1970. In the event that the above levels of restraint have been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton textiles and cotton textile products from Malaysia have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. IV, 1965–68). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 70-3394; Filed, Mar. 19, 1970; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

U.S. GOVERNMENT-SPONSORED COMMODITIES

Voyage Charter Rate Guidelines

In F.R. Doc. 69-11278 appearing in the FEDERAL RERISTER issue of September 19, 1969 (34 F.R. 14614), the voyage charter rate guidelines applicable to the movement of full shiploads of U.S. Government-sponsored commodities in U.S.-flag vessels were suspended for a period of six (6) months.

Notice is hereby given that the Maritime Administrator has approved, to be effective this date, March 20, 1970, a continuation of the suspension of voyage charter rate guidelines for an additional period of six (6) months.

Dated: March 18, 1970.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-3468; Filed, Mar. 19, 1970; 10:09 a.m.]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARD

Under the provisions of Public Law 89-306, the Secretary of Commerce is authorized to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards.

A proposed standard for Layout of Forms for OCR Input is being recommended by the National Bureau of Standards. This proposed standard was developed by the NBS Office of Information Processing Standards. At such time as it may be approved by the President, it will be published as a Federal Information Processing Standard.

Prior to the submission of the final endorsement of this proposal to the President, it is essential to assure that proper consideration is given the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which details the technical requirements of the standard.

Interested parties may submit comments to the Director, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, within 60 days after publication of this notice in the FEDERAL REGISTER.

Dated: March 6, 1970.

LEWIS M. BRANSCOMB,
Director.

FIPS PUB ------
PROPOSED-70-01-26

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION ------

Date ------

ANNOUNCING THE STANDARD FOR LAYOUT OF FORMS FOR OCR INPUT

(Documents and Pages)

Name of standard. Layout of Forms for OCR Input (Documents and Pages) (FIPS ------).

Category of standard. Hardware Standard, Character Recognition.

Explanation. This standard provides specifications and guidelines to Federal Government departments and agencies in the system design tasks relating to forms layout for optical character recognition (OCR) data input systems. It will aid in using more than one manufacturer's equipment in a system, the interchange of forms between systems, meeting the requirements of current OCR equipment, and reducing systems costs through efficient use of forms manufacturing equipment.

Approving authority. Bureau of the Budget. Form sizes have been approved by the Archivist of the United States.

Maintenance agency. Department of Commerce, National Bureau of Standards (Center for Computer Sciences and Technology).

Cross index. None.

Applicability. This standard applies only to forms layout for OCR input. It includes specifications for the sizes of forms and the arrangement of the information on them, the symbols to be used for information, and those for control of the scanning system. Specifications for character set, paper, ink and print quality will be covered by subsequent standards.

Specifications contained in the standard shall apply to OCR systems being planned for future use in the Federal Government, and to the extent possible to OCR systems currently in use. Where input forms are received from sources not under direct control of the Federal Government, the suppliers should be urged to follow the specifications of this standard. Final design of forms should be deferred until the system reader has been selected in order that specific limits of the reader will be met.

Implementation schedule. This standard shall be used in the design and procurement of OCR data input forms, the design of data processing systems involving OCR input, and the preparation of OCR equipment specifications effective 6 months after the date of this FIPS PUB. Agencies procuring forms for OCR input systems installed prior to this date should follow provisions of this standard to the extent that is practicable.

Specifications. Federal Information Processing Standard ------ (FIPS ------), Layout of Forms for OCR Input (Documents and Pages), (date ----------) (Affixed).

Waiver procedure. (a) General. The long-term compatibility and economic advantages obtained from the use of Federal ADP Standards are expected to offset one-time conversion and transition costs of implementing approved standards. Such one-time factors are not to be used as a basis for granting exceptions.

(b) Authority for exceptions. Exceptions to the use of this standard may be granted by heads of departments and agencies in those cases where the following conditions are applicable:

(1) Significant, continuing cost or efficiency disadvantages will be encountered; and

(2) The interchange of information with other Government OCR systems is minimal and is expected to remain minimal.

(c) Notice of waiver. Prior to the granting of such exceptions by heads of departments and agencies, these will be coordinated with the National Bureau of Standards. Such waivers should be forwarded to the Director, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. The nature of the proposed waivers and the reasons therefor should be spelled out in sufficient detail to permit the National Bureau of Standards to assess their Government-wide impact. Sixty days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be made until a reply from the National Bureau of Standards is received. However, the final decision for granting the waiver is a responsibility of the agency head.

Revisions. Revisions required to update and maintain this standard will be developed, announced, and forwarded to user agencies by the National Bureau of Standards after appropriate discussion. Requests for information and suggestions for revisions should be directed to the Office of Information Processing Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Where to obtain copies of the standard. Federal Government activities should obtain copies from established sources within each agency. When there is no established source, purchase orders should be submitted to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Refer to Federal Information Processing Standard Number------(FIPS------) (Price ------cents a copy).

Special information. The specification is intended as a guide in the design and procurement of forms for optical character recognition (OCR) systems. It contains mandatory requirements, indicated by the use of the words "must" and "shall"; permissible actions, indicated by the use of the word "may", and recommendations, indicated by the use of the word "should". In order to pro-

vide the reader with a more complete understanding of the specification, the permissible actions and recommendations have not been separated from the mandatory requirements in the text.

While the major producers of forms have had enough experience with OCR to make valuable recommendations in regard to forms design, and the manufacturers of the reading equipment have had experience in designing forms for their equipment, their interests do not necessarily coincide with those of the Government user. Their recommendations, therefore, should be considered in the light of this standard, the advertised capabilities of the readers, and the economics of the planned OCR system. In no case should a form be placed in production use until it has been tested thoroughly. Each new lot of forms should be checked to determine whether it meets specifications before being released for production use.

FEDERAL INFORMATION PROCESSING STANDARD------

Date------

SPECIFICATIONS FOR LAYOUT OF FORMS FOR OCR INPUT

(Documents and Pages)

1. *Name of standard.* Layout of forms for OCR Input (Documents and Pages) (FIPS------).

2. *Category of standard.* Hardware Standard, Character Recognition.

3. *Explanation.* This standard provides specifications and guidelines to Federal Government departments and agencies in the system design tasks relating to forms layout for optical character recognition (OCR) data input systems. It will aid in using more than one manufacturer's equipment in a system, the interchange of forms between systems, meeting the requirements of current OCR equipment, and reducing systems costs through efficient use of forms manufacturing equipment.

4. *Specifications.* Contents. These specifications contain sections and titles as follows:

4.1 Definitions.
4.2 Size and shape of forms.
4.3 Margins.
4.4 Registration of preprinted material.
4.5 Data fields.
4.6 Data format.
4.7 Non-read areas.
4.8 Special symbols.
4.9 Paper for OCR forms.
Appendix A–Usage and terminology.

4.1 *Definitions.* The interpretation of this standard shall be according to the definitions of terms listed in Appendix A, which is a part of this standard.

4.2 *Shape and size of forms.*

4.2.1 Shape.

4.2.1.1 The form shall be a rectangle with the nominal data line parallel to one edge. Forms at the largest variation must pass through a rectangle of maximum length $L+1/32$ inch and width $W+1/32$ inch and must not pass through a rectangle of $L-1/32$ inch and $W-1/32$ inch. Test gage shall be two rectangles. The maximum gage shall be $(L+1/32$ in.$)\pm 0.003$ inch$\times(W+1/32$ in.$)\pm 0.003$ inch with diagonal of

$$\sqrt{(L+1/32)^2+(W+1/32)^2}\pm 0.006 \text{ inch.}$$

The minimum gage shall be $(L-1/32$ in.$)\pm 0.003$ inch$\times(W-1/32$ in.$)\pm 0.003$ inch with diagonal of

$$\sqrt{(L+1/32 \text{ in.})^2+(W-1/32 \text{ in.})^2}\pm 0.006 \text{ inch.}$$

This procedure will take into account normal variations of edges and provide for squareness requirements.

Limitations on the aspect ratio (depth/width) may be imposed by the reader manufacturer and should be known by the forms designer.

4.2.1.2 Corner cuts.

Corner cuts and rounded corners should be avoided for OCR forms and are not required in many applications. If corner cuts are used for orienting forms, they shall not extend more than ½ inch in horizontal or vertical direction from the corner. Rounded corners shall not have a radius exceeding ½ inch (ANSI Standard X3.11–1966, "General Purpose Paper Cards for Information Processing", requirements are within these limits.)

4.2.2 Standard sizes.

Type of form	Nominal width (inches)	Nominal depth (inches)
Cut sheets	8½, 8, 4¼, 4	14, 11, 10½, 7, 5½, 5¼, 4¼, 3½, 3¼
Continuous	8½, 4¼	14, 11, 8½, 7, 5½, 4¼, 3½, 3½.
Unit sets	8½, 4¼	14, 11, 7, 5½, 4¼, 3½, 3½.
Tabulating (punch) cards.	7⅜, 4⅞	3¼.
Journal tapes	1⅝ minimum, 3¼ preferred, 4 maximum.	Limited only by paper handling devices on reading equipment.

NOTE 1: Widths and depths listed above for cut sheets or unit sets may be interchanged within either cut sheet or unit set categories. Cut sheet sizes may not be transferred to unit set listings. (Width is parallel to and depth is normal to nominal data line to be read by OCR device.)

NOTE 2: Square forms shall not be used.

NOTE 3: Sizes are those as the form is being fed to the OCR reader. It is advisable to remove gummed strips and pinfeed hole strips before feeding to the OCR reader since many OCR manufacturers do not permit holes in margins, and gummed strips may interfere with proper feeding.

NOTE 4: Most page readers will accept the minimum and maximum sizes listed above. Most document readers will accept forms with widths up to 8½ inches and depths up to 5½ inches. Each user should be familiar with the form size limitations imposed by his particular equipment.

NOTE 5: A problem of vertical registration arises when the length of a continuous form is not an exact multiple of the line spacing of the imprinting device used to enter data on the form. For example, if a typewriter using double-spacing (3 lines/inch) must be used to enter data on continuous 4¼-inch forms, and vertical registration is adjusted to one form, it will be off by a quarter of a double-space on the next form.

There are several solutions to this problem. One is to design the form so that the maximum misalignment possible may be tolerated providing the OCR scanner can also tolerate this (in the example, half a double-space, or ⅛ inch.) Another is to modify the layout of successive forms to account for the incompatibility. In the example, the form would be laid out four times as follows: (1) Nominal position; (2) lowered 1/32 inch; (3) raised or lowered ⅛ inch; and (4) raised ⅛ inch or lowered ¼ inch. This could be printed on a 17-inch rotary press. Each initial data entry line would then be an integral number of line feeds from the preceding one. A third solution is to use a form feeder which would move the next form into position independently of the line-feeding mechanism of the typewriter. A fourth solution is the use of a half space ratchet for the typewriter which will permit manual alignment for each new form.

4.3 *Margins.*

4.3.1 General.

A margin is that portion of the form extending from the nearest edge of the form to scanning area in which OCR-visible markings may not appear. Such markings include, but are not limited to, ink, pencil, stamps, holes, and staples. Minimum widths of margins are specified below. Margin widths are measured from the edges of the form as it exists at the time for reading. Forms manufacturing requirements must be added to these values. Where pinfeed holes are not removed before reading, margins shall be measured from the inside edge of these holes.

There are some readers which require control symbols within the minimum margin. When this is required, the placement of these symbols and the data to be read must be determined by the application and equipment. It is suggested that, wherever possible, noncontrol data in OCR-visible marking not appear within ¼ inch of such control data.

4.3.2 Minimum widths of margins.

4.3.2.1 Typewriter entry.

Data fields to be filled by typewriters or similar devices shall not be closer than 1 inch from the top or bottom edge of cut forms, unit sets, or tabulating cards unless a device is provided to insure maintenance of character alignment.

On continuous forms, typewritten entries shall allow top and bottom margins as given below.

4.3.2.2 Documents.

The term "Documents" categorizes forms designed primarily to be read using a unidirectional scanner with fixed reading heads. Forms (oriented as the machine reads) shall have right and left hand margins of at least ⅜ inch. It is suggested that side margins of at least ½ inch be used in order to allow for trimming and registration tolerances. Top and bottom margins of at least ¾ inch shall be provided.

4.3.2.3 Pages.

The term "Pages" categorizes forms designed primarily to be read on a reader using a bidirectional scanner. Top and bottom margins shall be at least ¾ inch and side margins shall be at least ½ inch in size.

4.3.2.4 Journal tapes.

The term "Journal Tapes" categorizes forms of indeterminate length but of constant width generated by such machines as adding machines and cash registers. Top and bottom margins consist of sufficient leader to meet the loading requirements of the particular reader in use. A minimum leader length of 18 inches of blank tape must be provided. Left and right margin widths must be determined by the application and the reading equipment.

4.4 *Registration of preprinted material.*

4.4.1 With respect to form sheet.

4.4.1.1 Horizontal and vertical.

Preprinted material shall be placed at the nominal distance from the reference edge involved with a tolerance of $\pm 1/32$ inch.

4.4.1.2 Skew.

Preprinted material shall be placed on the form sheet so that a line drawn parallel or perpendicular to a reference edge starting at the nominal data line at the first character of the longest line shall not pass through the last character at a height greater than one-quarter that of a full-height character above the nominal data line, nor fall more than the same distance below the nominal data line at the last character.

4.4.2 Multi-color printing.

All colors shall be within 1/32 inch of perfect register.

4.4.3 Registration marks.

It is recommended that all forms be designed with registration marks in diagonally opposite corners so that loss of registration during printing may be detected, and as an aid in checking the meeting of the specifications of this section.

4.5 *Data fields.*

4.5.1 General.

A data field contains a group of characters to be read as a single item of information. In blocked forms, the area reserved for the field is usually delineated by a box whose horizontal extent is indicated by vertical bars printed in nonreflective ink. In a hand printed data area, the use of such markers may be inimical to the operation of the system. In free formatted forms, the data field area is implied by its horizontal position with respect to some benchmark. The minimum extent of a data field is a single character, which may be an end-of-field marker. The maximum extent is a line despite the fact that running text may take several lines.

4.5.2 Indication of horizontal field limits.

4.5.2.1 Fixed fields for blocked forms.

The extent of a fixed field shall be indicated by a vertical bar such as the Long Vertical Mark of OCR–A. Such a bar must extend above and below the highest and lowest character in the field. These are often preprinted as stripes extending several lines or the whole length of the form. Such preprinted markers must extend above and below the field boundary so that the specification in this paragraph may be met for characters at the boundary of the field.

The minimum thickness of such a bar shall be 0.008 inch.

The maximum thickness of such a bar shall be 0.040 inch.

This requirement is not applicable to journal tapes or to forms intended for hand print reading systems which cannot tolerate such marks.

4.5.2.2 Variable length fields.

The actual termination of a variable length field should be indicated by any symbol not used in the data to be read. In systems using free form entry, the vertical bar is to be preferred. Subfields may be indicated by any symbol different from that used to indicate the end of the field.

This requirement is not applicable to journal tapes.

4.5.2.3 Spacing of field delimiters.

There shall be a clear space of one character width on either side of a preprinted field delimiter. Where such delimiters are entered with the data, normal character separation may be observed, with a blank space between the characters no less than the average stroke thickness of the vertical stroke of the figure 1 or the capital "E" of the character set used. Where data are entered at different times, field delimiters entered earlier are to be treated as preprinted symbols for the purposes of this section.

4.6 *Data format.*

4.6.1 Character set.

Any character set may be used which is within the capabilities of the planned system, the back-up system planned, and the overload system planned. Considerations of the ability to read the set chosen under conditions of normally degraded imprinting, human factors, and economics should be part of the font selection criteria. In general, a sans-serif font of open construction with constant line thickness is apt to produce fewer rejects or errors. Care should be taken to determine that there are significant differences between pairs of characters which may appear in the same field.

Ten-pitch (pica) fonts are recommended to promote system reliability. While some readers can handle twelve-pitch (elite) fonts, the use of such fonts means extreme care must be taken in keeping the equipment in good condition and in maintaining high standards for input form preparation. Many readers do not read fonts of different pitches at the same time, and few can work at rated speeds with variable pitch fonts.

4.6.2 Vertical spacing.

The nominal data lines shall not be less than ¼ inch apart vertically. While some equipment can read six lines per inch, this spacing presents difficulties for the reader and cannot be used if vertical bars on a line above or below a given line come in the same horizontal position as data characters on that line. Most office typewriters come equipped with half-space ratchets at no extra cost so that a spacing of four lines per inch or the usual double spacing (three lines per inch) can be obtained easily. The general practice in providing forms for hand entry is to put such entries at four lines per inch, so using the same spacing for accompanying typed data for the OCR reader and makes forms layout simpler.

A line drawn parallel or perpendicular to the reference edge through the lowest point of the lowest character on a line, and a similar line drawn through the highest point of the highest character on the line below it shall be separated by a minimum vertical distance of 0.080 inch. Unless large fonts such as those used with credit cards are used, the nominal four-per-inch line spacing given here should insure meeting this requirement.

4.6.3 OCR copy.

The original copy of multipart forms shall be used for OCR input except where the use of plastic plates or similar parallel imprinting devices requires carbon images. (There are inherent problems of operation with carbon copies.)

4.6.4 Printing.

4.6.4.1 OCR printing.

It is recommended that OCR forms be printed on the felt side of the paper to obtain more uniform reflectivity. A carbon ink is recommended for OCR-visible printing because it is nonreflective in the operating bands of all commercially available readers.

4.6.4.2 Back printing.

It is recommended that forms for OCR systems have no backprinting because of the problems of legibility and economy of forms procurement which arise when backprinting is used. When backprinting is required, the following specifications shall be observed in order to minimize show-through and bleed-through:

(1) The paper must have a minimum basis weight of 40 pounds (17 x 22–1000).

(2) The minimum opacity of the paper before printing must be 85 percent.

(3) Backprinting shall have a minimum surface reflectance of 50 percent in the spectral range of the equipment to be used, obtained by choice of pigments and/or screening with a minimum mesh of 100 dots per inch.

4.6.4.3 Reflective ink.

Reflective inks are used where information must be provided for humans in areas where it might confuse the reading machine. These inks use pigments which are highly reflective in the region of response of the reader, but are poor reflectors in other regions. This causes them to appear "while" to the reader, and colored to the human. Their "whiteness" is enhanced through the addition of white pigments and by screening to show paper in the inked area. Such screening shall be 100 dots per inch or finer.

It must be noted that some mixtures of pigments giving the same color effect to the eye as another combination, may not be satisfactory to the machine. For example, a violet obtained by a mixture of red and blue pigments will not be satisfactory to a machine working in the violet range since the red pigment will look black to it.

Criteria for selection of inks must include the light response curves of the equipment of the system, of the back-up equipment, and of the overload equipment. While some inks suitable for a machine working in the blue to ultra-violet range (the hardest for which to find suitable inks) may be suitable for one working in the blue, or blue-green, the reverse is most likely not to be true. The intended purpose of the printing is also important. A very pale ink which may be satisfactory for blocking areas may not be satisfactory (to the human reader) for printing small block captions. Whenever possible, an ink working at the peak of the response band should be used, so that variations of density occurring during printing will not cause intermittent failures.

4.6.5 Specific exception.

The provisions of section 4.6, Data Format, are not applicable to hand printed characters or characters originally generated on a cathode ray tube display.

4.7 *Nonread areas.*

4.7.1 Guides for filling forms.

4.7.1.1 Purpose.

Form entry guides such as blocks, rulings, and captions are aids to the proper placement of data on the form and instruction for data to be entered. They should be visible to the human eye, but not visible to the scanner. To accomplish this they are printed in reflective ink as described in section 4.6.4.3. Such instructions are an important means of increasing the speed of making entries and of reducing errors in entering data. Use of reflective inks permits these instructions to appear near their point of use. Where possible, they should be placed in separate areas which are not scanned. The fast-feed capabilities of the system reader should be considered in deciding on such placement. Form entry guides may be in OCR-visible ink if they are outside read areas.

4.7.1.2 Positioning data.

Portions of the field may be shaded in reflective ink as an aid to positioning data to be entered in the field. Alternatively, lines in reflective ink within the field may be used for the same purpose.

4.7.1.3 Forms positioning.

A special band at the top of the form should be made available to permit proper horizontal and vertical positioning of the form in the device used for data entry. This may take the form of a line for trial characters extending across the top, or two 3 to 5 character fields, one at top left, the other at top right, in which trial characters may be entered to test paper alignment. On long forms, such line guides may appear several times down the sheet, particularly if the form is of the free form type, or is provided as a continuous form. Care should be taken in placing these guides to ensure that normal spacing of the imprinting equipment will feed the form up so as to place the nominal data line centrally in the clear area rather than near the lower border.

4.7.1.4 End-of-form warning marker.

Warning markers at the bottom of free form or multiline entry forms should appear in reflective ink so that the data are not continued beyond the reading area of the form. One form of this is a column of countdown line numbers opposite the last few lines.

4.7.1.5 Font indicators.

Font reminders are desirable in operations where the entry devices may use different fonts for other operations. One design might be a line of type in the proper font to be compared with a trial line entered below it from the device.

4.7.1.6 Paper settings.

Paper guide, margin, and tab-stop settings for the form should be indicated at the top to insure proper data layout.

4.7.1.7 Field labels.

Data labels or captions preprinted in reflective ink for each field, number, data designation, or both, and codes to be used are extremely helpful in reducing entry errors.

4.7.2 Other users.

It may be necessary to enter data on the form for human users as well as the OCR reader. These data include initials, data

stamps, filing instructions, etc. It is possible to use OCR readers which will ignore the usual stamp pad inks and ballpoint pen inks. However, it is better to set aside for this purpose areas on the form which will not be read by the OCR unit. Care should be taken to provide ample room for such entries and colored strip boundaries to protect against encroachment upon the OCR fields.

4.8 *Special symbols.*

4.8.1 Control characters.

Symbols to control the OCR equipment and the flow of information from it are required for many purposes. Whenever possible, the control characters should be chosen so that they may be recognized by machines from different manufacturers without special adaptation. (One method to reduce the number of characters lost to control purposes is to use an escape symbol and, if required, a reentry symbol. The same characters may then be used for data and for control purposes.)

4.8.2 Control indicia.

Some systems require symbols other than characters to effect control operations. These may be lines or angles generally larger than a single character. Such symbols are used for alignment, initial positioning, positioning after large skips, setting up coordinate axes for scan control, and for identification of lines of data on a form where they may vary considerably with respect to the preprinted information.

Such control indicia shall generally conform to a manufacturer's specifications. When equipment of different models is to be used for backup or overload purposes, the controls noted above should, if possible, be in reflective ink for the latter equipment, or in an area which, through programing, may be avoided by the latter equipment.

4.8.3 Special data symbols.

In some applications, other data symbols may be required. The selection of these symbols shall take into consideration the characteristics of the equipment to be used, as well as human factors. The National Bureau of Standards is to be advised of each instance when special characters or symbols are to be added to an equipment repertoire.

4.9 *Paper for OCR forms.*

4.9.1 General.

The choice of paper for the forms is not properly a part of forms layout. However, since the specifications for paper for OCR forms have not yet been issued and the significant effects choice of paper has upon the chances for success of an OCR system, this purely advisory section has been added for interim guidance. See, however, section 4.6.2.2(2).

Certain optical properties of the paper must be considered relative to the optical properties of the scanner, and the method and control of imprinting. Certain physical properties must be considered with respect to the feed system of the reader. Some of these properties are inter-related, so that the chosen range of values for one property must be a compromise to permit a proper range for another.

One hundred percent wood-pulp papers are preferred to wood-pulp and rag mixtures because of the difference in accepting ink by the two materials which leads to variations in print density. Similarly, paper coatings must be considered with respect to the imprinting methods and materials.

4.9.2 *Optical properties.*

4.9.2.1 Reflectance.

Paper for OCR forms should be good diffuse reflectors, to provide high contrast between the background and the imprinting. Low gloss papers must be used, as glossy papers reflect most of the incident light in specular fashion.

In general, paper for OCR should have a minimum reflectance of 55 percent in wavelengths shorter than 425 nm, 60 percent between 425 and 500 nm, and 70 percent between 500 and 1100 nm. This roughly defines a white paper. White paper is generally used, since it meets the requirements of all existing scanners. However, it is possible to use pale hues of some specific colors with some specific readers. In this case, the minimums in the band of interest are the only ones which need be considered.

Variations in reflectance represent noise to the scanner, and should be kept low. There is less variation on the felt side of the paper than on the wire side, so it should be used for OCR imprinting.

Reflectance variation is related to opacity of paper. For medium opacity paper, the standard deviation of the reflectance should be no more than 5 percent of the mean reflectance; for high opacity paper, it should be no more than 3.5 percent of the mean reflectance.

4.9.2.2 Opacity.

Opacity is a measure of the effect the supporting medium has upon the reflectance of the form and its variation at time of reading, and of the effect of backprinting on the optical noise in the system. Two grades of paper based on opacity are used in OCR applications—medium opacity, paper with values between 65 percent and 85 percent, and high opacity, paper having values of 85 percent or more.

4.9.2.3 Dirt in paper.

Dirt in paper is a physical property which is important only because of its optical effects. Dirt is defined as any area of visibly different reflectance which cannot be contained in a 0.004 inch square (about the smallest size that can be picked up by rapid visual scanning of a sheet). It occurs during paper production at random intervals. A count of 150 such spots per 1,000 square inch provides acceptable probability that such spots will not fall in an area where reader rejects or errors will be caused. This does not include marks which are added after manufacture, such as during data entry. These must be minimized through personnel training.

4.9.3 Physical properties.

4.9.3.1 Caliper.

Caliper (thickness) affects proper feeding of forms through gates. Its variation is generally more important that its actual value. Variations in caliper may also give erroneous indications of doubles feeds, or permit doubles feeds without detection. Caliper is related to basis weight (a measure of the density of material in the sheet), opacity, and smoothness.

4.9.3.2 Smoothness.

Smoothness is a measure of surface roughness, which can affect feeding adversely if out of suitable range. Too smooth paper causes trouble with friction feeds, while too rough paper causes trouble when a form is dragged across another at the feed pile or in a stacker.

4.9.3.3 Porosity.

Porosity is generally measured by trying to pass air through the paper. It is important because of its effect on the operation of vacuum feeds, where too porous a paper lessens the effect of a pick-up or carry mechanism, and may cause double feeding.

4.9.3.4 Stiffness.

Stiffness is a measure of the ability of paper to support its own weight. This is important in feed areas where there is transition from one feed unit to another. Too stiff a paper may refuse to come in contact with the next moving unit properly if a vacuum or gravity are relied upon to power the changeover. On the other hand, too limp a paper may not free itself in time from a pulley to be caught up by a stationary pickoff plate.

4.9.3.5 Burst strength and tear.

These are generally of importance only for highspeed paper feeds, where acceleration puts a strain on the paper so that it might split or extend an existing nick. Paper ordinarily used for OCR has sufficient burst strength and tear resistance to be handled by the currently available paper handlers.

4.9.4 Typically obtainable values.

The table below lists some typical values for the characteristics listed above for paper used in OCR forms.

TYPICAL OCR PAPER CHARACTERISTICS

Basis weight (pounds) (17 × 22-1000)	30.0	40.0	48.0	56.0	64.0	[1] 99.0	(Tab stock).
Tolerance (percent)	5	5	5	5	5	5	
Brightness [2]	81	81	81	81	81	81	
Tolerance	2	2	2	2	2	2	
Opacity (B & L)	75	85	88	91	93	94	
Tolerance	3	3	3	3	3	3	
Smoothness (Sheffield)	150	150	150	150	150	125	Maximum.
Tolerance	50	50	50	50	50	------	
Porosity (Gurley)	15	20	20	25	25	50	Minimum.
Tolerance	5	10	10	10	10	------	
Stiffness, CD (Gurley) [3]	50	125	200	275	350	8	(Taber) minimum.
Tolerance	25	50	75	100	150	------	
Burst (Perkins)	20	25	30	35	40	55	Minimum.
Tolerance	5	5	5	5	3	------	
Dirt (Marks/1000 sq. in. maximum)	150	150	150	150	150	150	
Caliper (in.)	0.0031	0.0039	0.0046	0.0054	0.0062	0.0070	
Tolerance	0.0003	0.0003	0.0003	0.0003	0.0003	0.0004	

[1] Pounds (24 × 36-500).
[2] A measure of reflectance for white paper (made at one wavelength in the blue region).
[3] CD=across grain. Values are greater along the grain (MD). Tab stock specifications are identical with Federal Specification GC-116D.

Appendix A—Usage and Terminology

Character set (font)—A set of graphic shapes for the alphabetic, numeric, and other symbols used in an OCR system

Character spacing—See character alignment.

Clear area—That region on a form in which only OCR characters are to be printed.

Continuous form—A series of forms which are provided in either single-ply or multi-ply assembly attached to one another so as to permit continuous feed to a data entry station. These are usually separated (burst) along perforated lines prior to reading. Such forms for OCR use must be provided with pinfeed holes as an aid to maintaining alignment and verticle positioning at the time of imprinting.

Control symbol—Any symbol other than input data, which provides information for use of the OCR system. This may signal a requirement for a function of the reader, for transmission of data, or for computer program branching.

Corner cut—The removal of a triangular segment from the corner of a form, usually in the manufacturing process.

Cut sheet form—A form which is provided in individual sheets by the forms manufacturer.

Data field—A specified portion of the clear area that is limited to a set of one or more

characters that may be treated as a unit of information.

Depth (length)—The distance between the two edges of a form reached by moving at right angles to a nominal data line, measured at the time when the form is ready to be fed into a reading device.

Document—A form designed as input to a document reader.

Document reader—An OCR device which scans one to five lines of data in fixed locations on a document at a single pass. The position of a scan band is generally set mechanically and cannot be reset during the scanning operation. Generally, no rescanning of a portion of the document is possible, one direction of the scan being provided by movement of the form past the reading head.

Drop-out-ink—See nonread ink.

Field—See data field.

Field boundary—The smallest rectangle with sides parallel and perpendicular to a reference edge which will contain all the characters in a data field.

Field delimiter—A symbol indicating the extent of a data field.

Felt side—In the manufacture of paper, the side of the product opposite the supported or wire side. Normally OCR forms would be printed on the felt side to obtain best optical response.

Font—See character set.

Form—Any paper prepared as data input to be processed by an OCR unit. This includes pages and documents. The method of imprinting is immaterial, and this definition includes pages of printed text.

Free form—A form on which the data appear in variable length fields. Preprinted symbols and guides are minimal or entirely lacking. Field delimiters are entered with the data.

Free format—a format of data appearing in either fixed or variable length fields arranged in columnar fashion, usually through the use of a tabulating mechanism. Preprinted symbols and guides are minimal or entirely lacking. Field delimiters are not entered, the field being defined by the position along the line.

Hand print—Manually drawn characters using printing shapes rather than cursive script.

Imprinter—Any device for entering useful markings onto a form. This includes, but is not limited to, printing presses, typewriters, pressure imprinting devices such as those used with credit cards and address plates, pencils, pins, cash registers, adding machines, and bookkeeping machines.

Imprinting—The act of using an imprinter. The output of any imprinter affecting an OCR form.

Journal tape (tally roll)—Input to an OCR unit in the form of a paper strip of uniform width, but of indeterminate length.

Journal tape reader—An OCR reader designed to read journal tapes. (Some document readers and some page readers are capable of modification to accommodate journal tapes.)

Leading edge—The edge of the form which is used for locating the first line of data to be scanned. This may be the same as the reference edge.

Length—See depth.

Moisture resistant paper—A category of OCR paper developed to meet unusual ambient or climatic conditions, such as census forms, meter reading forms, out-of-doors imprinting forms, etc.

Nominal data line—An imaginary reference line across an OCR form which is the intended locus of character base lines.

Nonread ink (reflective ink)—Any markings meant to be visible to the human, but to which the scanner is insensitive.

Nonreflective ink (OCR-visible ink)—Any markings to which the scanner is sensitive.

OCR—See Optical Character Recognition.

OCR-visible ink—See nonreflective ink.

Opacity—That quality of paper that makes it impervious to light, and is a measure of its ability to prevent show-through of backprinted material. Opacity is here defined as the ratio of the reflectance with black backing to that with an infinite pad backing times 100 percent. (A black backing is a material with a reflectance of 3 percent or less. An infinite pad consists of a number of layers of the same paper such that doubling the number of layers will not cause a change in the reflectance of the paper.)

Optical character reader (reader)—An information processing device which accepts prepared forms and converts data thereon to a machine sensible form.

Optical Character Recognition (OCR)—An information processing technology dealing with the conversion of imprinted data into a machine sensible form by processing light reflected from, or transmitted through, characters which usually can be used for human reading.

Optical scanner—See scanner.

Page—A form on which many lines of data may be entered to be read by a page reader. The page may be a boxed or blocked form, a free form, or a free formatted form, or a page of continuous text.

Page reader—An OCR unit which may scan many lines of data during a single pass of the form through the unit. The scanning pattern is generally subject to program control and may be determined by data on the form itself. Rescanning of individual characters or fields is usually possible.

Pitch—The nominal distance between centerlines of adjacent characters.

Preprinted—Relating to graphic material entered on a form prior to a subsequent entry. This includes material entered by a previous pass either through the same or a different imprinter.

Read ink—Any markings to which an OCR device is sensitive.

Reference edge—That edge of a form used to align reading lines parallel to the scanning path. Readers vary as to which of the four edges may be used as reference edge.

Reflectance—The ratio of the response of a light sensor illuminated by diffuse reflection from paper with an infinite pad backing compared to that when the paper sample is replaced by a perfect diffuse reflector. A specially prepared surface of magnesium oxide is considered to be a perfect diffuse reflector (reflectance—100 percent).

Reflective ink—See nonread ink.

Scan—A search for marks to be recognized by the recognition unit of the OCR reader, and the conversion of the optical signal to an electrical signal.

Scan band—A strip across a document which passes directly beneath a scanning head of a document reader, and in which OCR-visible markings are expected to be found.

Scanner—That portion of a reading machine having the functions of locating material to be read and converting optical signals to electrical signals.

Scan area—That area of a form which contains information to be scanned.

Skew—Any rotational departure from defined character or line location.

Snapout set—A trade name for unit set.

Special symbol—A member of a character set other than numeric, alphabetic, or punctuation graphics.

Strip form (*or strip*)—See continuous form.

Tally roll—See journal tape.

Test gage—A device of suitable dimensions and tolerance for use as a quality control tool.

Turn-around form—A form intended for future reentry, possibly with added data, via OCR.

Typing line—The locus of character spaces placed on any nominal data entry line or reading line.

Unit set—A multi-ply form with the plies attached at one or more edges to insure registration of the plies during data entry. These are single units as opposed to continuous forms.

Variation—The normal departure of a characteristic during continuous manufacture from a datum or reference value.

Vertical field separator—Vertical bars on a form such as the Long Vertical Mark of OCR–A used to indicate a limit of a data field.

Width—The distance between the two edges of a form measured along a nominal data line at the time the form is ready to be fed to the reading machine.

[F.R. Doc. 70–3382; Filed, Mar. 19, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 994; I.C.C. Order No. 42]

CHESAPEAKE AND OHIO RAILWAY CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, The Chesapeake and Ohio Railway Co. is unable to transport traffic over its lines between Muncie, Ind., and Marion, Ind., because of bridge damage.

It is ordered, That:

(a) The Chesapeake and Ohio Railway Co., being unable to transport traffic over its lines between Muncie, Ind., and Marion, Ind., because of bridge damage, is hereby authorized to reroute and direct such traffic over The Baltimore and Ohio Railroad Co., via any available junctions, to expedite the movement.

(b) Concurrence of receiving road to be obtained. The Chesapeake and Ohio Railway Co. shall receive the concurrence of The Baltimore and Ohio Railroad Co. before the rerouting or diversion is ordered.

(c) Notification to shippers. Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance

with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 12:01 a.m., March 15, 1970.

(g) Expiration date. This order shall expire at 11:59 p.m., March 22, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 14, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-3385; Filed, Mar. 19, 1970; 8:49 a.m.]

[No. 35224]

ALABAMA INTRASTATE FREIGHT RATES AND CHARGES, 1969

In the Matter of the Assignment for Hearing and Directing Special Procedure

Present: Laurence K. Walrath, Commissioner, to whom the matter which is the subject of this order has been referred for action thereon.

It appearing, That by order dated January 28, 1970, the Commission, Division 2, instituted an investigation, pursuant to section 13 of the Interstate Commerce Act, into the matters and things presented in the petition filed January 20, 1970, by the common carriers by railroad operating within the State of Alabama, wherein it is alleged that the Alabama Public Service Commission has refused to authorize or to permit increases in rates and charges on carloads of lime, pig iron, pulpwood (and wood chips), and certain other commodities published by the rail carriers in items 630 to 635 Series of their tariff X-259-B; and increases in annual volume rates on coal to Yellowleaf, Ala., as published in item 50010 Series of Southern Freight Tariff Bureau's tariff 838, I.C.C. S-39, moving in interstate commerce corresponding to increases authorized by this Commission on interstate commerce in Ex Parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 590 and 714;

And it further appearing, That upon consideration of the record in the above-entitled proceeding, this matter is one which should be referred to a hearing examiner for hearing and requires the adoption of special procedure for the purpose of expediting the hearing; and for good cause showing:

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Hearing Examiner George P. Morin for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That on or before April 6, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceeding and at the same time, serve a copy of such prepared material upon all persons listed in appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceeding on or before March 27, 1970.

It is further ordered, That on or before May 8, 1970, protestants shall file with the Commission three copies of rebuttal verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in appendix A hereto and any additional persons who make known their desire to actively participate on or before March 27, 1970. Attached hereto as appendix A is a list of all known persons who have indicated their desire to actively participate in the proceeding. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before March 27, 1970, as well as all persons listed in appendix A attached hereto. Otherwise, any interested person desiring to participate in this proceeding may make his appearance at the hearing.

It is further ordered, That on or before May 18, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of said statements upon all persons listed in Appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceeding on or before March 27, 1970.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before June 1, 1970, a copy of such notice to be filed simultaneously with the Commission together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That a hearing will be held commencing on June 15, 1970, 9:30 a.m., d.s.t. (or 9:30 a.m., standard time, if that time is observed), in Room 702, State Office Building, 501 Dexter Avenue, Montgomery, Ala., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

And it is further ordered, That a copy of this order be served upon the respondents and protestants; that the State of Alabama be notified by sending a copy of this order by certified mail to the Governor of Alabama, Montgomery, Ala., and to the Alabama Public Service Commission, Montgomery, Ala.; and that further notice be given to the public by depositing a copy of this order in the Office of the Secretary of this Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 10th day of March 1970.

By the Commission, Commissioner Walrath.

[SEAL] H. NEIL GARSON,
Secretary.

APPENDIX A

RESPONDENTS

James L. Howe III, Commerce Counsel, Southern Railway System, Post Office Box 1808, Washington, D.C. 20013.
Albert B. Russ, Jr., Assistant General Solicitor, Seaboard Coast Line Railroad, Post Office Box 1620, Richmond, Va. 23213.
John F. Smith, Commerce Attorney, Louisville and Nashville Railroad Co., 908 West Broadway, Louisville, Ky. 40201.
William H. Teasley, Commerce Counsel, Central of Georgia Railway Co., 301 West Broad Street, Savannah, Ga. 31401.

PROTESTANTS

Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35203.
Harold A. Bowron, Jr., Martin, Balch, Bingham, Hawthorne & Williams, 600 North 18th Street, Birmingham, Ala. 35203.
L. M. Cutcliff, Secretary, Alabama Industrial Shippers Conference, Post Office Box 354, Birmingham, Ala. 35203.
C. D. Haig, Jr., General Traffic Manager Terminal Railway, Alabama State Docks, Post Office Box 1588, Mobile, Ala. 36601.
J. C. Harper, Industrial Traffic Managers and Consultants, Post Office Box 332-A, 900 22d Street South, Birmingham, Ala. 35205.
L. P. Hearn, International Paper Co., Post Office Box 2328, Mobile, Ala. 36601.
L. P. Hudgins, Woodward Co., a division of The Mead Corp.
Robert A. Jones, Transportation Rate Supervisor, Alabama Public Service Commission, Post Office Box 991, Montgomery, Ala. 36102.
R. L. Kendall, Inland Container Corp., 700 West Morris, Indianapolis, Ind. 46225.
C. E. Martin, Traffic Manager-Rates & Divisions, Atlanta and West Point RR. Co., The Western Railway of Alabama, Georgia Railroad, 4 Hunter Street SE., Atlanta, Ga. 30303.
L. A. Parish, Traffic Manager, McWane Iron Co., Post Office Box 231, Mobile, Ala. 36601.
Richard W. Remmert, Assistant Director-Transportation, Vulcan Materials Co., Post Office Box 7497, Birmingham, Ala. 35223.
Southern Electric Generating Co., 600 North 18th Street, Birmingham, Ala. 35203.

[F.R. Doc. 70-3387; Filed, Mar. 19, 1970; 8:49 a.m.]

[No. 35124]

KANSAS INTRASTATE FREIGHT RATES AND CHARGES, 1969

Granting of Petition for Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 2d day of December 1969.

Upon consideration of the petition filed in the above-captioned proceeding on June 4, 1969, by 10 common carriers by railroad operating within the State of Kansas seeking an investigation of the intrastate rate structure within Kansas insofar as the State Corporation Commission of the State of Kansas has refused to allow the application to intrastate rates of the general increases authorized by the Interstate Commerce Commission in Ex Parte No. 223, Increased Freight Rates, 1960, 311 I.C.C. 373 (1960), and Ex Parte No. 256 Increased Freight Rates, 1967, 329 I.C.C. 854, and 332 I.C.C. 280 (1967), and further seeking to increase intrastate rates to the level authorized in Ex Parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 590 (1968), and 332 I.C.C. 714 (1969); the reply thereto filed on July 22, 1969, by Concrete Materials Division, Martin Marietta Corp.; and

It appearing, That the action sought is authorized and required by section 13 of the Interstate Commerce Act;

And for good cause appearing:

It is ordered, That the petition be, and it is hereby, granted; that an investigation be, and it is hereby, instituted pursuant to section 13 of the Interstate Commerce Act; and that all common carriers by railroad operating within the State of Kansas be, and they are hereby, made respondents to this proceeding.

It is further ordered, That a copy of this order be served upon each of the said respondents and upon the applicant; that the State of Kansas be notified of the proceeding by sending a copy of this order by certified mail to the Governor of the State, Topeka, Kans., and a copy of the State Corporation Commission of the State of Kansas, Topeka, Kans.; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of this Commission at Washington, D.C.

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter designate, at which time or later the requests for a prehearing conference will be disposed of.

By the Commission, Division 2.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-3386; Filed, Mar. 19, 1970; 8:49 a.m.]

[No. 35223]

KENTUCKY INTRASTATE RATES AND CHARGES ON SAND AND RELATED ARTICLES, 1969

In the Matter of the Assignment for Hearing and Directing Special Procedure

Present: Laurence K. Walrath, Commissioner, to whom the matter which is the subject of this order has been referred for action thereon.

It appearing, That by order dated January 28, 1970, the Commission, Division 2, instituted an investigation, pursuant to section 13 of the Interstate Commerce Act into the matters and things presented in the petition filed January 20, 1970, by the common carriers by railroad operating within the State of Kentucky, wherein it is alleged that the Railroad Commission of Kentucky has refused to authorize or to permit increases in rates and charges on sand, gravel, crushed stone, and related articles moving in intrastate commerce corresponding to increases authorized by this Commission on interstate commerce in Ex Parte No. 259, Increased Freight Rates, 1968, 332 I.C.C. 590 and 714;

And it further appearing, That upon consideration of the record in the above-entitled proceeding, this matter is one which should be referred to a hearing examiner for hearing and requires the adoption of special procedure for the purpose of expediting the hearing; and for good cause showing:

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Hearing Examiner George P. Morin for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That on or before April 6, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing with a statement where the underlying workpapers to such studies will be available for inspection by parties to the proceeding and at the same time, serve a copy of such prepared material upon all persons listed in appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceeding on or before March 27, 1970.

It is further ordered, That on or before May 8, 1970, protestants shall file with the Commission three copies of rebuttal verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in appendix A attached hereto and any additional persons who make known their desire to actively participate on or before March 27, 1970. Attached hereto as appendix A is a list of all known persons who have indicated their desire to actively participate in the proceeding. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before March 27, 1970, as well as all persons listed in appendix A attached hereto. Otherwise, any interested person desiring to participate in this proceeding may make his appearance at the hearing.

It is further ordered, That on or before May 18, 1970, the respondents and any persons in support thereof shall file with the Commission three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of said statements upon all persons listed in Appendix A hereto and any additional persons who make known their desire to actively participate in the proceeding on or before March 27, 1970.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before June 1, 1970, a copy of such notice to be filed simultaneously with the Commission together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That, a hearing will be held commencing on June 22, 1970, 9:30 a.m., d.s.t. (or 9:30 a.m., standard time, if that time is observed), in the Auditorium, First Floor, State Office Building, Frankfort, Ky., for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the examiner deems necessary to complete the record.

And it is further ordered, That a copy of this order be served upon the respondents and protestants; that the State of Kentucky be notified by sending a copy of this order by certified mail to the Governor of the State of Kentucky, Frankfort, Ky., and to the Kentucky Railroad Commission, Frankfort, Ky.; and that further notice be given to the public by depositing a copy of this order in the Office of the Secretary of this Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 10th day of March 1970.

By the Commission, Commissioner Walrath.

[SEAL] H. NEIL GARSON,
Secretary.

APPENDIX A

RESPONDENTS

Harry N. Babcock, Assistant to General Counsel, The Chesapeake and Ohio Railway Co., Post Office Box 6419, Cleveland, Ohio 44101.
John H. Doeringer, Commerce Attorney, Illinois Central Railroad, 135 East Eleventh Place, Chicago, Ill. 60605.
James L. Howe III, Commerce Counsel, Southern Railway System, Post Office Box 1808, Washington, D.C. 20013.
John F. Smith, Commerce Attorney, Louisville and Nashville Railroad Co., 908 West Broadway, Louisville, Ky. 40201.

PROTESTANTS

W. D. Milne, President, The Kentucky Stone Co., Louisville, Ky. 40201.
C. L. Rigsby, Kentucky Railroad Commission, 108 State Office Building, Louisville, Ky. 40201.

[F.R. Doc. 70-3388; Filed, Mar. 19, 1970; 8:49 a.m.]

[Ex Parte No. 265; Special Permission No. 70-3700, Amdt. 1]

INCREASED FREIGHT RATES, 1970

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of March, 1970.

Upon further consideration of the matters and things involved in Special Permission No. 70-3700, entered by the Commission on March 6, 1970, and upon consideration of (1) a petition filed by Albert B. Russ, Jr., and other attorneys, for and on behalf of Southern Territory railroads for modification of Special Permission No. 70-3700 to grant the same measure of authority to publish a general increase in freight rates within Southern Territory as defined in Appendix A of the petition, and (2) of a petition dated March 13, 1970, filed by Edward A. Kaier and other attorneys for and on behalf of all railroads respondents in Ex Parte No. 265, for modification of Special Permission No. 70-3700 to permit the filing of (a) connecting link supplements, (b) tariffs or supplements of specific increased rates or charges, or (c) specific publication in tariffs of supplements subjecting the rates and charges to the provisions of a master tariff, all as specifically included in paragraphs 1(b), 1(c), and 1(d), upon less than the 75 days' notice required by Special Permission No. 70-3700, and good cause appearing therefor:

It is ordered, That Special Permission No. 70-3700, entered as aforestated, be, and it is hereby, modified so as to provide that the authority contained therein with respect to general increases in freight rates shall also apply, subject to the same terms and conditions, to general increases in freight rates and charges within Southern Territory as proposed in the petition dated March 12, 1970.

It is further ordered, That the petition of March 13, 1970, be, and it is hereby, denied.

And it is further ordered, That except as herein modified and amended, Special Permission No. 70-3700, shall be, and remain, in full force and effect.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-3390; Filed, Mar. 19, 1970; 8:49 a.m.]

[Ex Parte No. 265]

INCREASED FREIGHT RATES, 1970

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 16th day of March A.D. 1970.

It appearing, That by order entered March 6, 1970, the Commission instituted an investigation into and concerning the adequacy of all freight rates and charges of all common carriers by railroad in the United States; said investigation to include the proposals of the eastern and western railroads for increases in the rates and charges as set forth in their petition filed March 3, 1970 and to include the reasonableness and lawfulness of such increases.

It further appearing, That by a petition filed March 12, 1970, the Southern Territory railroads sought authority to increase rates and charges within Southern Territory and in support thereof adopted certain portions of the petition filed by the eastern and western railroads on March 3, 1970.

And it further appearing, That the petition of the Southern Territory railroads seeks no change in the procedural schedule provided for in the Commission's order of March 6, 1970.

It is ordered, That the order of March 6, 1970 be, and it is hereby, amended to embrace in the investigation therein ordered the proposal of the Southern railroads for increases in rates and charges as set forth in their petition filed March 12, 1970, which investigation shall include the reasonableness and lawfulness of such increases.

And it is further ordered, That except as herein amended, the order entered March 6, 1970 shall be, and remains, in full force and effect.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-3391; Filed, Mar. 19, 1970; 8:49 a.m.]

[Notice 511]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 18, 1970.

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 pendings its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71974. By order of March 16, 1970, the Motor Carrier Board approved the transfer of Mesday Trucking Service, Inc., Trenton, N.J., of certificates Nos. MC-119364 and MC-119364 (Sub-No. 1) issued to Michael Mesday, doing business as Mesday Trucking Service, Trenton, N.J., authorizing the transportation of: General commodities, with the usual exceptions, and also authorizing the transportation of certain specified commodities, between specified points in New York, Maryland, Pennsylvania, and Delaware. Albert Cooper III, Attorney at Law, 28 West State Street, Trenton, N.J. 08608.

No. MC-FC-71978. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Bacon Transport Co., a corporation, Ardmore, Okla., of that portion of the operating rights in certificate No. MC-111967 issued August 14, 1963, to Caddell Transit Corp., Lawton, Okla., authorizing the transportation of petroleum asphalt, in bulk, in tank vehicles, from Ardmore, Okla., and points within 5 miles thereof, to points in Texas within 350 miles of Ardmore. Wilburn L. Williamson, 600 Leininger Building, Oklahoma City, Okla. 73112, attorney for applicants.

No. MC-FC-71995. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Be-Well Farms, Inc., Medway, Mass., of certificate No. MC-87528 issued to Union Transportation Co., Inc., Gloucester, Mass., authorizing the transportation of: Wearing apparel, shoes, fish, glue, and isinglass, between specified points in Massachusetts and points in Rhode Island, Connecticut, and New York. Frederick T. O'Sullivan, Attorney at Law, 372 Granite Avenue, Milton, Mass. 02186.

No. MC-FC-71998. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Heritage Trucking Co., a corporation, Detroit, Mich., of permit No. MC-109223 (Sub-No. 2) issued to McFarren Cartage Co., Inc., Detroit, Mich., authorizing the transportation of: Meats, from Detroit, Mich., to points in a specified area of Michigan. John W. Ester, Attorney at Law, 1 Woodward Avenue, Detroit, Mich. 48226.

No. MC-FC-72010. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Jacobson Transfer, Inc., York, Nebr., of the operating rights in permit No. MC-129720 issued August 15, 1969, to Ruttman, Inc., Nelson, Nebr. 68961, authorizing the transportation of specified commodities from and to specified points in Illinois, Nebraska, Texas, and Kansas. Charles J. Kimball, 300 N.S.E.A. Building, Post Office Box 2028, Lincoln, Nebr. 68501, attorney for applicants.

No. MC-FC-72020. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Waite Transfer & Storage Co., 1221 Highland Court, Iowa City, Iowa 52240, of the operating

rights in certificate No. MC–17590 issued July 25, 1944, to Charles J. Whipple and Carrie M. Whipple, a partnership, doing business as Thompson Transfer & Storage Co., 1221 Highland Court, Iowa City, Iowa 52240, authorizing the transportation of household goods between specified points in Iowa, on the one hand, and, on the other, points in Missouri, Illinois, Indiana, Ohio, Michigan, Minnesota, and Wisconsin.

No. MC–FC–72024. By order of March 13, 1970, the Motor Carrier Board approved the transfer to Robert Foltz, Ottawa, Kans., of the operating rights in certificate No. MC–1942 issued March 18, 1968, to M. J. Gentner, doing business as Ottawa Grain & Seed Co., Ottawa, Kans., authorizing the transportation, over regular routes, of feed, in bulk, and general commodities, except those of unusual value, classes A and B explosives, commodities in bulk other than feed, commodities requiring special equipment, and those injurious or contaminating to other lading, between Richmond, Kans., and Kansas City, Mo., serving the intermediate and off-route points of North Kansas City, Mo., Kansas City, Kans., and those within 20 miles of Richmond, Kans.; livestock, between Richmond, Kans., and St. Joseph, Mo., serving intermediate and off-route points within 20 miles of Richmond, Kans., and binder twine, from St. Louis, Mo., to Richmond, Kans., serving no intermediate points; and, over irregular routes, fertilizer, in sacks, and feed and seed, in sacks and in bulk, from St. Joseph, Mo., to Richmond, Kans., and points within 20 miles thereof; fertilizer, dry, in bulk and in sacks, from Horn, Mo., to Richmond, Kans., and points within 20 miles thereof; and church furniture, uncrated, from Garnett, Kans., to points in Missouri, Ohio, Iowa, Nebraska, Oklahoma, Illinois, and Texas. Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–3392; Filed, Mar. 19, 1970; 8:49 a.m.]

[Ex Parte Nos. MC–72; MC–19 (Sub-No. 6)]

MOTOR SERVICE ON SHIPMENTS OF NEW FURNITURE

Petition To Amend the Household Goods Definition To Embrace Furniture Without Qualification

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of December A.D. 1969.

Upon consideration of the records in the above-entitled proceedings, and of:

(1) Motion of Regular Common Carrier Conference of American Trucking Associations, Inc., in Ex Parte No. MC–72, filed February 3, 1969, to strike the representations of the Bureau of Enforcement, or, in the alternative, for leave to reply thereto, which motion is joined in by the Western Railroads by telegram dated February 3, 1969;

(2) Reply by Bureau of Enforcement, filed February 24, 1969;

(3) Joint petition of American Movers Conference, Household Goods Carriers' Bureau, and Movers and Warehousemen's Association of America, Inc., in Ex Parte No. MC–19 (Sub-No. 6), filed December 20, 1968, for reopening of the proceeding in Ex Parte No. MC–19 for the purpose of amending § 1056.1(b) of the general rules and regulations of Motor Carriers of Household Goods and for consolidation of that proceeding with the proceeding in Ex Parte No. MC–72;

and good cause appearing therefor:

It is ordered, That the said motion to strike in (1) above be, and it is hereby, overruled for the reason that no sufficient or proper cause appears for granting the relief sought in view of the action set forth below.

It is further ordered, That the said petition in (3) above be, and it is hereby, denied for the reason that no sufficient or proper cause appears for granting the relief sought at this time.

It is further ordered, That, in order to develop a more complete record upon which an informed decision in this proceeding might be based, the proceeding in Ex Parte No. MC–72 be, and it is hereby, held open for the submission of additional specific statements on the subjects mentioned below, or any other subject pertinent to this proceeding.

It is further ordered, That carriers, shippers, or any other interested persons may submit for consideration written statements of specific facts, views, and arguments regarding the problems experienced by manufacturers of new furniture in obtaining responsive and adequate transportation facilities for the marketing and shipment of their products and the remedial action proposed in the notice of proposed rulemaking and order of July 11, 1968, with particular reference to the locations of furniture manufacturing facilities; the transportation requirements of new furniture shippers in terms of the territory for which service is needed; the territorial areas in which service on new furniture shipments is inadequate; the effect of the decision in National Furniture Traffic Conference, Inc. v. Associated Truck Lines, Inc., 332 I.C.C. 802, affirmed by the statutory three-judge District Court for the Western District of Michigan, Southern Division, in Civil Action No. 6070, _____ F. Supp. _____ (September 29, 1969), on the adequacy of the service provided by general commodity carriers on shipments of new furniture; the effect of the peak season demand for service on household goods shipments on the ability of household goods carriers to provide service on both household goods shipments and shipments of new furniture on a 12-month basis; the territorial authority held by household goods carriers in relation to the locations and territorial transportation requirements of new furniture shippers; the competitive impact that the proposed authorizations would have upon specific operations of general commodity carriers and specialized furniture carriers; restrictions that might be imposed on any grant of additional authority that would reduce that competitive impact while allowing improvement in the service provided on new furniture shipments; the specific manner in which authority to transport general commodities (or materials, equipment, and supplies used in the manufacture of furniture) in the manner proposed would enable specialized furniture carriers to provide improved service on shipments of new furniture; whether removal of restrictions pertaining to the types of furniture that may be transported and to the transportation of either crated or uncrated shipments from certificates held by specialized furniture carriers would enable such carriers to provide improved service on shipments of new furniture; the matters raised in the representations submitted by the Bureau of Enforcement; and any other matters pertinent to this proceeding.

It is further ordered, That any person, not already a party herein, intending to participate in this proceeding by submitting additional statements or reply statements shall notify the Commission, by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before January 20, 1970, the original and one copy of a statement of his intention to participate; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed; and that at the time of the service of the service list the Commission will fix the time within which additional statements and reply statements must be filed. The statements already filed will remain a part of the record in this proceeding, and those persons named in the original service list will remain parties to this proceeding and need not file a new statement of intent.

It is further ordred, That a copy of this order be mailed to the Governor of every State and to the Public Utilities Commission or Boards of each State having jurisdiction over motor transportation; that a copy be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that a copy be delivered to the Director, Office of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–3389; Filed, Mar. 19, 1970; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MARCH

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 March.

1 CFR

3 CFR

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7 CFR

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PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

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Milk In Washington, D.C., Delaware Valley, and Upper Chesapeake Bay Marketing Areas

Recommended Decision

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1003, 1004, 1016]

[Dockets Nos. AO–293–A23 etc.]

MILK IN WASHINGTON, D.C., DELAWARE VALLEY, AND UPPER CHESAPEAKE BAY MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Part	Market	Docket No.
1003	Washington, D.C.	AO–293–A23. AO–293–A23–RO1.
1004	Delaware Valley	AO–160–A43. AO–160–A43–RO1.
1016	Upper Chesapeake Bay	AO–312–A20. AO–312–A20–RO1.

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued 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).

PRELIMINARY STATEMENT

The hearing on the record of which the findings and conclusions, as hereinafter set forth, were formulated, was conducted at Baltimore, Md., on August 4–15, 1969, and at King of Prussia, Pa., on August 18–22, 1969, pursuant to notice thereof which was issued on July 3, 1969 (34 F.R. 11364), and at a reopened hearing which was conducted at Friendship International Airport, Md., on October 30, 1969, pursuant to a notice which was issued on October 22, 1969 (34 F.R. 17298).

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

1. Merger of two or more of the marketing areas (Delaware Valley, Upper Chesapeake Bay [Maryland], and Washington, D.C.) in any combination thereof, including also redefinition of the marketing area for any separate or combined order to encompass part or all of the areas presently defined in the respective orders, and in addition, the remaining unregulated territory within the State of Delaware and Loudoun County, Va.

2. If an order is issued for one milk marketing area in the manner proposed, what its provisions should be with respect to:

(a) Milk to be priced and pooled.

(b) Classification.

(c) Class prices, butterfat differentials and location differentials.

(d) Seasonal incentive plan (base-excess plan, Louisville plan).

(e) Marketing service provision.

(f) Cooperative payment provisions.

(g) Payments to producers and cooperative associations.

(h) Miscellaneous administrative and conforming changes.

3. Bracketing of the Class I price to provide price movements only in specified increments and announcement of the Class I price prior to the beginning of the pricing period.

A partial decision was issued by the Assistant Secretary (35 F.R. 1017) on January 20, 1970, with respect to Issue No. 3 in which the matter of bracketing of the Class I price was denied at this time. In denying bracketing, the Assistant Secretary concluded: "If bracketing is a desirable pricing feature it appropriately should be considered, and is included as an issue, in connection with the hearing covering all Federal orders scheduled to convene at St. Louis, Mo., on January 20, 1970" (34 F.R. 19078 and 35 F.R. 435). Official notice is taken of the fact that a session of the hearing was held in St. Louis on January 20–23, 1970, and a further session was held in New York City beginning February 17–18, 1970, pursuant to notice thereof issued on January 29, 1970 (35 F.R. 2527), and that with respect to the issues there considered, such hearing constituted a further reopening of the hearing on which this decision is based. The findings and conclusions hereinafter set forth with respect to the matter of Class I price are based solely on the record of the originally scheduled hearing held in Baltimore, Md., and King of Prussia, Pa. The matters considered at the second reopening of the hearing are reserved for later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues (except Issue No. 3) are based on the evidence presented at the hearing and the record thereof:

1. *Merger of the three orders and expansion of the marketing area.* The marketing orders regulating the handling of milk in the Washington, D.C. (Order 3), Delaware Valley (Order 4) and Upper Chesapeake Bay (Order 16) should be merged into a single regulation. The combined marketing area should be extended to include, in addition to all of the territory now contained in the three respective marketing areas, the remaining unregulated territory in the State of Delaware and the county of Loudoun in the Commonwealth of Virginia. The combined area of regulation should be designated the "Middle Atlantic marketing area."

A proposal for order consolidation and extension of the area of regulation in the identical manner herein adopted was made by Pennmarva Dairymen's Cooperative Federation, Inc. Three cooperative associations, the principal cooperative in terms of producer membership under each of the three respective marketing orders, constitute the membership of Pennmarva.

There was no opposition to the proposed order consolidation. To the contrary, the merger was actively supported through testimony by other cooperative associations with membership among producers in the three respective markets and by the Mid-Atlantic Federal Order Committee representing handlers distributing in excess of 70 percent of the total fluid sales on routes under the three respective orders.

The immediate situation prompting the request for order merger is a rapidly proceeding integration of the marketing structure among the three markets and the impact of changing supply sources for particular sales outlets as a result of intermarket plant consolidations.

The area here being considered has been variously regulated since September 1936 when an order was initially promulgated covering the "District of Columbia" market. That order was operative but a short time and another order for the "Washington, D.C.", market was effected February 1, 1940, which order continued until March 1947 when it was terminated at the request of producers producing more than 50 percent of the milk supplying said market. A new order was promulgated effective July 1, 1959.

An order covering the Philadelphia market was effected April 1, 1942, and in June 1956 an order was effectuated covering the Wilmington, Del., market. These two orders were merged and extended to cover the New Jersey portion of the current marketing area effective December 1, 1963.

An order covering the Upper Chesapeake Bay marketing area was initially effected February 1, 1960.

Over the years, the number of distributors and the number of processing plants in these respective markets have steadily declined. Of the 15 plants which were initially regulated under the Wilmington order in June 1956, only five remain in operation today. Of the 68 plants which were regulated under the Philadelphia order in June of 1956 only 17 (including replacements) remain today. Included in the 51 plant closings under that order were 29 receiving stations. More recent trends show that since December 1963, when Order 4 was extended to southern New Jersey, 18 of the 28 plants in the New Jersey area of the market have closed operations. Also, since 1961, 15 of 27 regulated plants initially regulated under Order 16 have discontinued operations.

The fluid milk distribution previously made from the now discontinued operations has been absorbed through expanded plant facilities and routes of the

remaining handlers. As a result, the distribution area of some of the larger plants has been substantially extended. For example, the A&P grocery chain, whose stores in the respective markets were until recently served by local handlers in those markets, now operates its own milk processing plant at Fort Washington, Pa. This plant generally serves its store outlets throughout the marketing areas of Orders 3, 4, and 16, except in the Commonwealth of Virginia and the cities of Washington, D.C., and Baltimore, Md.

Official notice is taken of the fact that Sealtest Foods has recently closed its processing operations in the Washington, D.C., market and is now serving both its Upper Chesapeake Bay and Washington, D.C., marketing area accounts from its Baltimore plant. Official notice is also taken of the fact that Giant Foods has recently started operation of a processing plant at Lanham, Md., in the Washington, D.C., marketing area serving its accounts in both that market and the Upper Chesapeake Bay market (except Baltimore City).

The H. E. Koontz Creamery Co. operates a processing plant in Baltimore, Md., from which it serves its accounts in all three of the areas here being merged. Many other handlers also serve more than one of these areas from a single plant. For example, as of April 1969 nine Order 3 handlers had sales in the Order 16 marketing area.

The three markets historically have drawn milk supplies from a broadly overlapping supply area. In large measure, the Washington, D.C., and the Upper Chesapeake Bay market supply areas completely overlap and this common supply area overlaps, to a considerable degree, the Delaware Valley supply area, particularly on the eastern shore of Maryland, in central Maryland, south-central Pennsylvania, and in Virginia and West Virginia.

Continuing plant consolidations have substantially altered the relative volumes of Class I sales originating from the three respective markets and this situation is likely to continue. As Class I sales shift among these markets, the Class I utilization percentages of the respective markets change, and as a result the relationship of producer returns as among these markets also changes. Because producers in the three respective markets are primarily members of different cooperative associations, the constantly changing relationship of blended prices as a result of Class I sales shifts has tended to promote confusion and discontent among producers. While the three principal cooperatives (all members of Pennmarva) are cooperating in an effort to shift supplies in response to Class I sales shifts among the three markets, such supply changes have not necessarily been economic and are not always understood by affected producers.

Official notice is taken of the market administrators' monthly statistics for the months of August through December 1969. While the Washington, D.C., blend price during the first half of the year averaged 13 cents above the Upper Chesapeake Bay blend price, it declined precipitously from a plus 15 cents in May to a minus 28 cents in July and has averaged 11 cents below for the last 6 months of the year.

Although the effect of shifts in sales as between Delaware Valley and Upper Chesapeake Bay or Washington, D.C., is not as apparent as shifts between the latter two markets, the impact of such shifts on producer returns may, in fact, be no less substantial.

The situation is further complicated by the fact that a gain or loss of accounts on the part of any handler operating in two or more of these markets can result in a shift of regulation of the plant as among the orders. Such shifts are not only disconcerting to the handler involved, but also affect his producer supplies, since such shifting can result in substantial changes in returns to the producers involved. Since the three markets compete actively for milk supplies as well as for sales outlets, any significant changes (temporary or otherwise) in blend price relationships tends to be disruptive to handlers' procurement programs and causes much dissatisfaction among producers.

The primary responsibility for balancing supplies in the respective markets here being considered has fallen on the individual cooperative associations constituting the membership of Pennmarva Federation. However, only Maryland and Virginia Milk Producers Association operates plant facilities. Its Laurel, Md., manufacturing plant handles much of the reserve milk supply under the three respective orders. One other manufacturing plant operated by a proprietary handler processes reserve milk from at least two of the orders. Other facilities are primarily associated with a single order.

While the present individual orders are constructed to implement the orderly disposition of the several markets' reserve supplies, the separate regulations, and hence interests of the handlers (including the individual members of Pennmarva), are not now necessarily encouraging or implementing the most efficient handling of such milk.

While each of the three cooperative members of Pennmarva will apparently continue to maintain its individual identity and market the milk of its members, the Federation provides a means for coordinating the activities of the three cooperative members. The Pennmarva Federation as an organization therefore has interests throughout the combined market. The adoption of a single merged order will implement to the fullest extent possible flexibility in the handling of the combined market's milk supply, including disposition of necessary market reserves. It also will promote more orderly marketing by eliminating the continuously changing relationship in returns among producers which now result from changing handler operations among the three areas.

Loudoun County, now an unregulated area, is located in the north-central section of Virginia bounded by Fairfax County on the east; Fauquier and Prince William Counties on the south; Clarke County and the West Virginia State line on the west; and Frederick County, Md., on the north.

These boundaries enclose an area of 517 square miles and a currently estimated population of 39,000 as contrasted with the 1960 Census of Population figure of 24,549.

Loudoun County is 38 miles to the west of Washington, D.C., and is fast becoming a member community of the Washington Metropolitan area. In recent years, its largest populated center, the Leesburg district, has grown rapidly both from an industrial and residential standpoint. The Dulles International Airport, and the Sterling Park and Reston developments, both self-contained housing and shopping areas, are recent evidence of the trend towards the urbanization of this once generally rural area.

For many years, Loudoun County, because of its rural character, has been a major supplier of raw milk to the Washington, D.C., market. In November 1968 its 107 producers furnished 5,422,000 pounds, or about 6.3 percent of the total milk in the Order 3 market. Producers residing in the county also supply milk to the Upper Chesapeake Bay market.

At the present time, five handlers regulated under Order 3 are serving consumers in the Loudoun County area.

There are currently no processing plants located within the county. However, in addition to regulated handlers, the area is served by two unregulated dealers. One such dealer, located at Marshall (Fauquier County), Va., procures his milk supply (about 300 to 350 gallons per day) from the Maryland and Virginia Milk Producers Association. The second unregulated dealer is located at Winchester (Frederick County), Va. This operation is owned by the Valley of Virginia Milk Producers Association, whose member producers are substantial suppliers of milk to Order 3 through its subsidiary, Alexandria Dairy, one of the principal distributors in the Virginia portion of the marketing area. The milk supplied to the Winchester operation by the Association, however, is not presently pooled under the order.

Less than 10 percent of the Winchester plant's sales are presently made in Loudoun County. Approximately 10 percent of the total fluid milk sales in the county originate from the two unregulated dealers. The remaining sales are by handlers presently regulated under Order 3.

The extension of the combined marketing area to include Loudoun County at this time is desirable to insure continuing orderly marketing in this contiguous area which is rapidly changing to an area of urban and industrial character.

By virtue of the extension at this time, all producers, handlers and other segments of the industry doing business therein, or contemplating such, will have full assurance that all milk sold therein is being fully accounted for under the terms of the order at not less than the prices specified under the order.

There was no opposition to this proposed extension and such extension was generally supported by the dairy farmer

suppliers of all the milk presently distributed in the county. In view of these considerations, it is concluded that this county should be included in the defined marketing area of the merged order.

That remaining portion of the State of Delaware, herein included in the combined and expanded marketing area, encompasses the counties of Kent and Sussex and that portion of New Castle County south of the Chesapeake and Delaware Canal. This area at its northern boundary abuts the southern boundary of the present Delaware Valley marketing area. Its western and southern boundaries abut the present Upper Chesapeake Bay marketing area and its eastern boundary is the Delaware Bay and/or Atlantic Ocean.

The extension of regulation to include this Delaware area was proposed by Pennmarva, the proponent of order merger, and was supported by the Mid-Atlantic Federal Order Committee representing handlers distributing in excess of 70 percent of the milk sold in the present three marketing areas.

This area is presently served by a number of fully regulated handlers, including one local dairy (Lewes) and by three other local (unregulated) dealers. These are the Diamond State Dairies, Inc., Kenton, Del.; Hi-Grade Dairy, Harrington, Del., and Larimore Dairy, Inc., Seaford, Del. The latter three dairies opposed regulation and attempted to establish that this portion of Delaware is a marketing area essentially rural in character, separate and distinct from the surrounding territory which is not involved with the marketing problems of the adjacent urban markets.

Contrary to the contentions of local dealers, this area is inextricably involved in competition in both procurement and sales with the immediately adjacent regulated area. In December 1968, approximately 175 dairy farmers in this New Castle, Kent, and Sussex County area shipped milk as producer milk to handlers fully regulated under the Delaware Valley milk order. Based on the average size of dairy farms for the State as a whole, these producers shipped in excess of 5 million pounds of milk per month to Order 4 handlers in 1968. An additional volume of milk from this area is regularly sold as producer milk to Upper Chesapeake Bay order handlers. The three presently unregulated local dealers receive milk from fewer than 45 dairy farmer patrons whose farms are interspersed with those shipping to the Delaware Valley market.

Such distributors also attach significance to the fact that in considering previous requests to regulate this area, the Department declined to institute regulation.

The area in question is a peninsula jutting from the outermost boundaries of a larger area in which the presently regulated handlers selling there, by virtue of the order merger, will be subject to identical terms of regulation. The current marketing situation in the area may be characterized as being substantially different from that existing when the matter was previously considered. In the years since the initial promulgation of the Upper Chesapeake Bay order, at least six local, unregulated Delaware dealers who formerly distributed milk in this area of southern Delaware have gone out of business, primarily through sale to one handler or another who is regulated under either the Upper Chesapeake Bay or Delaware Valley milk order. Although regulated handlers initially had limited sales in this area, this situation has changed greatly since 1963 when the matter of regulating this area was first considered for inclusion in Order 4.

While the sales of individual handlers in this area cannot be specifically determined on the basis of this record, Order 16 handlers unquestionably have the largest volume of sales, and the current total sales by all regulated handlers constitute between one-half and 75 percent of the total fluid sales in this area.

At the present time the three unregulated handlers remaining in this area do not purchase milk from dairy farmers on a classified pricing plan. Rather, they purchase milk either directly from producers or from cooperative associations on the basis of a differential over the announced Federal Order No. 4 blend price. All of these handlers, however, have essentially a Class I utilization. Hence, there is currently a lack of uniformity in the minimum prices prevailing among competing dealers for their purchases for Class I use in an area where a majority of the distribution is made by the regulated handlers.

The local, unregulated distributors contend that resale prices in this area are lower than those in the presently regulated areas. That resale prices prevailing in the area to be added may be below those of the surrounding regulated areas could well be manifestation of current market instability, at least for those selling the majority of the milk who are paying the higher prices for their milk supplies, and is therefore substantiating evidence of the need for regulation at this time.

The Middle Atlantic marketing area as herein adopted includes the State of Delaware, the State of Maryland (except Washington, Garrett and Allegany Counties), northern Virginia, southeastern Pennsylvania, southern New Jersey and the District of Columbia. As previously stated, handlers and distributors throughout the area compete with each other for Class I sales and in procurement of milk. Approximately 8,900 producers variously located in the States of Delaware, Maryland, Pennsylvania, New Jersey, Virginia and West Virginia regularly supply milk for the entire market to be regulated. Milk moves throughout the market daily in interstate commerce, or in a manner which burdens, obstructs or affects interstate commerce in milk or its products.

In view of the above considerations, all remaining unregulated territory in the State of Delaware should be added to the defined marketing area of the merged order.

A uniform price plan applicable to all handlers buying milk for sale in the expanded area will stabilize and improve marketing conditions in such area. Regulation will effectuate the declared policy of the Act by providing for:

(1) The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(2) An impartial audit of handlers' records to verify the payments of required prices; and

(3) A system for verifying the accuracy of weights and butterfat content of the milk purchases; and

(4) Uniform returns to producers supplying the market based upon an equitable sharing among all producers supplying the expanded market of the lower returns for the sale of reserve milk which cannot be marketed as Class I milk.

2. *Terms and provisions of the order.* The terms and provisions of the existing Delaware Valley, Upper Chesapeake Bay, and Washington, D.C., orders are essentially similar and, in large part, identical. Because the Delaware Valley order was most recently reviewed (April 1967) in its entirely (33 F.R. 5876), the CFR Part 1004 of Title 7 is retained for the consolidated order and the several order provisions are set forth in the format of that order. When the merger is effected, Parts 1003 and 1016 of Title 7 Washington, D.C. Order No. 3 and Upper Chesapeake Bay Order No. 16), respectively, will be superseded.

From a careful review of the evidence of the hearing, it is concluded that order provisions which are substantially identical in the three respective orders and for which no proposed changes were offered are equally suitable for the combined order covering the merged and extended marketing area and they are adopted for the identical reasons advanced in the decisions adopting such provisions in the respective orders.

All Federal milk orders, including the three here being considered, were amended January 1, 1970 (34 F.R. 18603), with respect to matters relating to the classification and pricing of filled milk pursuant to a decision of the Assistant Secretary issued October 13, 1969 (34 F.R. 16881).

The findings and conclusions of that decision which were officially noticed at the hearing as they relate to the three separate orders are equally pertinent and applicable to the merged and extended order. Such findings and conclusions are adopted as a part of this decision as if set forth in full herein.

2(a). *Milk to be priced and pooled.* Some revision is necessary to certain definitions, essentially common to the three orders, which specify what milk and which persons would be subject to full regulation. The definitions involved described the categories of persons, plants, and milk products to which the applicable provisions of the order relate.

It is essential to the operation of a market pool that minimum plant performance requirements be established to distinguish between those plants substantially associated with the fluid market and those which do not serve the market in a way, or to a degree, that

warrants their sharing (by being included in the market pool) in the market utilization of Class I milk. Such standards also facilitate an equitable application of regulation on handlers who have only a minor proportion of their distribution in the regulated market.

The several plant definitions included in the order prescribe the minimum performance standards for pooling and categorize plants which do not meet these standards. Any plant, wherever located, may become a pool plant by meeting the prescribed market performance standards. The dairy farmers regularly delivering thereto will be accorded producer status and share in the distribution of proceeds from the milk sales of all handlers.

Plant definition. Each of the orders now contains an essentially identical "plant" definition although the respective definitions are structured somewhat differently. Fundamentally, a facility, to qualify as a plant, must in one way or another actually process and/or package milk or milk products. Each of the orders make clear that a facility used only for transfer of milk from one vehicle to another is not a plant. The Delaware Valley order, in addition, specifically excludes a separate facility used only as a distribution depot for fluid milk products in transit for route disposition.

The plant definition under the Delaware Valley order, because of its greater specificity and hence clarity, is concluded to be most appropriate for the merged order. Proponents generally supported this definition but in addition proposed a modification which would include, as a plant, a transfer station if such station had actual storage facilities.

It is not apparent what advantage would accrue from such a modification. The mere existence of storage facilities could have no pertinence to a plant definition if such facilities are not actually utilized. Any handler operating a transfer station with storage facilities could, if he did not wish it to acquire plant status, simply remove such storage facilities, or in the alternative, establish a different transfer point. Either procedure would be equally effective in defeating the intent of proponent's proposed modification. Since the modification could serve no useful purpose, the proposal is denied.

Pool plant. As a condition for pooling, a plant with route disposition in the marketing area (a distributing plant) should be required to have not less than 50 percent of its dairy farmer receipts, including milk diverted to other plants and milk received from a cooperative association acting as a handler on farm bulk tank milk, disposed of as Class I milk during the month and at least 10 percent of such receipts disposed of as route disposition in the marketing area.

A plant which has no direct dairy farmer receipts should be provided pooling status if it meets such minimum performance standards with respect to overall milk receipts.

In its initial proposal, proponent for the merged order proposed that a distributing plant be qualified as a pool plant during the months of September through February only if at least 60 percent of the receipts associated therewith were disposed of as Class I milk, and during the months of March through August only if at least 55 percent of its receipts were so disposed, with the additional condition in any month that at least 10 percent of such receipts must have been disposed of on routes in the marketing area.

In its posthearing brief, proponent modified its proposal with respect to the seasonal percentage requirements, requesting that such standards be set at 55 and 50 percent, respectively, in lieu of the 60 and 55 percent figures initially proposed.

Presently, a plant to qualify as a pool distributing plant under Order 4 must dispose of at least 50 percent of its dairy farmer receipts (45 percent in the months of March through August) during the month as fluid milk on routes and have 10 percent of such receipts disposed of on routes in the marketing area.

Both orders Nos. 3 and 16 require that at least 50 percent of a distributing plant's receipts be disposed of as Class I milk during the month and this applies for each month of the year. Also, at least 10 percent of the distributing plant's receipts must be disposed of as Class I sales on routes within the marketing area.

Proponent indicated that its proposed higher performance standards (55 percent and 50 percent) would insure the continued pooling of the milk supply which has historically been associated with the respective markets and at the same time would be effective in maintaining the combined market's overall Class I utilization percentage.

The 50 percent overall Class I utilization standard has accommodated the pooling of all distributing plants associated with the Washington, D.C., and Upper Chesapeake Bay markets. While it is slightly higher than that currently provided under the Delaware Valley order (45 percent March through August and 50 percent September through February) the fact that the percentage is expressed in terms of Class I utilization rather than route disposition minimizes the possible impact of such change. Accordingly, such performance standard is concluded to be appropriate for the merged order. Any plant which had at least 50 percent of its dairy farmer receipts disposed of as Class I milk is primarily involved in the fluid milk business and if at least 10 percent of such receipts is disposed of on routes in the marketing area, the plant is sufficiently identified with the market to require participation in the marketwide pool.

For reasons later set forth in this decision, a cooperative association is provided handler status with respect to milk of member producers which it causes to be diverted to a nonpool plant for its account. Milk so diverted is deemed to have been received by the cooperative at a pool plant at the location of the pool plant from which such milk was diverted but is priced on the basis of the prices applicable at the location of the plant of physical receipt. It is intended for purpose of determining the pool status of any plant, that milk so diverted, as well as milk diverted for the account of the plant operator, shall be considered as a receipt from dairy farmers at the plant from which diverted. Unless this is done, it would be possible for a cooperative to work in consort with a proprietary handler and associate with the pool, milk intended solely for the handler's unregulated manufacturing operations, while at the same time insuring the pool plant status of the handler's distributing plant by acting as the responsible handler on diverted milk.

The pooling provisions should insure pool plant status for any distributing plant which receives no milk from dairy farmers or through a cooperative association as a handler on bulk tank milk but which meets the prescribed performance standards with respect to its overall receipts from other plants.

The situation supporting this procedure was reviewed at a public hearing held for the Delaware Valley milk order November 7–9, 1968. The findings and conclusions of the Deputy Administrator, Regulatory Programs, relating to this and other matters were set forth in his recommended decision of April 18, 1969 (34 F.R. 6788), official notice of which is taken.

The findings and conclusions concerning this matter as set forth in that decision are equally pertinent with respect to the current marketing situation in the combined market, and are adopted as a part of these findings as follows:

> * * * a distributing plant which receives all its milk supply through a supply plant may not acquire pooling status under the terms of the present order even though such distributing plant may be the means by which the supply plant acquires its pooling status. Transfers from such a nonpool distributing plant, either in bulk or packaged form, to a pool distributing plant, are assigned pro rata to classes of use as an other source receipt as such pool distributing plant. Proponent pointed out the possibility that under the present provisions such milk assigned to Class I could be subjected to a pool payment as the difference between the Class I price and the market blended price regardless of the fact that such milk might have been fully accounted for at the originating supply plant as Class I milk.
>
> Proponent pointed out that such accounting with respect to receipts from a nonpool plant which receives all its milk from pool supply plants can reduce the amount of supply plant milk which is assigned to Class I, and hence the amount of milk on which the cooperative can recover hauling costs. Proponent suggested, also, that custom bottling is becoming an ever-increasing marketing practice, a pool distributing plant having an increasing custom bottling operation might at some stage be forced into nonpool status even though as much as 99 percent of its milk might be packaged for distribution as Class I milk in the marketing area. This could occur simply because the plant met neither the 50 percent present route disposition requirement for distributing plants nor the 50 percent shipping requirement for supply plants.
>
> To insure continuing equitable treatment of its supply plant milk, the cooperative, in certain instances where it is the sole supplier, is moving one load of producer

milk directly from the farm to a bottling plant on at least 1 day during the month to maintain such plant's continuing status as a pool distributing plant. This procedure, proponent contended, is uneconomic and the consequence of the inadvertent missing of a shipment in any month could be such as to impose an unreasonable penalty * * *

Under many Federal orders, a distributing plant is pooled on the basis of meeting specified Class I disposition percentages with respect to its total milk receipts. However, in an effort to avoid certain problems which can result from interdependent pooling requirements, the pooling standards under this order were adopted in terms of specified disposition percentages with respect to receipts from dairy farmers only. Since the order contains provisions intended to assure the appropriate pricing of all milk disposed of for fluid use in the regulated market it was not considered necessary to provide pooling status for a distributing plant receiving all its milk from other plants.

Under the terms of the order [Delaware Valley] a distributing plant receiving all milk from other plants is treated as a partially regulated plant and as such is charged only for its Class I route sales in the marketing area. A transfer from such a plant to a pool plant is treated as a receipt of other source milk and is allocated pro rata to the utilization at the transferee plant. On any such milk allocated to Class I the operator of the pool plant is required to make a pool payment of the difference between the Class I and market uniform prices.

Such treatment would be appropriate under usual circumstances since partially regulated distributing plants normally have the preponderance of their disposition outside the regulated market and receive their milk directly from dairy farmers in competition with the producers supplying fully regulated handlers.

The situation here confronting us is uniquely different in that a distribution plant is receiving essentially its entire milk supply from a pool supply plant and almost its entire output of milk is disposed of in the regulated market either directly on routes or through other plants.

Proponent's basic objectives are to insure the continued pooling of its supply plant milk and at the same time to recover to the fullest extent possible, through a Class I classification, transportation cost involved in moving its milk to the central market.

There are clearly advantages in the application of regulation to have any distributing plant substantially associated with the local fluid market fully regulated even though such plant has no direct dairy farmer receipts. In the case of a partially regulated plant buying milk only from pool supply plants operated by cooperative associations, there is no effective means of insuring payment to such cooperative association of the prescribed minimum order prices. Consequently, the cooperative could be the unfortunate victim of underpayment on the part of the operator of the partially regulated plant.

In the case at issue the cooperative has acted to insure full regulation of its buyer handler. Under the circumstances, there is no apparent reason why the proposal should not be implemented * * *

It is concluded that an additional alternative pooling standard for distributing plants should be adopted in the combined order which will reflect the same overall utilization and performance requirements with respect to the plant's total milk receipts from other plants as are required with respect to those of plants which receive milk directly from dairy farmers.

Provision is made in each of the three orders and should likewise be adopted for the combined order for the application of "partial" regulation to plants having a lesser association than that required for pooling. Limited quantities 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 is concluded that in present circumstances such provision for partial regulation will not jeopardize marketing conditions within the regulated marketing area.

Offical notice was taken at the hearing of the Assistant Secretary's June 19, 1964, decision (29 F.R. 9002) supporting the amendments to 76 orders, in which the matter of partial regulation was discussed. The decision, as it relates to an unregulated plant having some Class I distribution in the marketing area, is appropriate under current conditions in the proposed marketing area and is adopted as a part of this decision as if set forth in full herein.

The operator of any partially regulated distributing plant would be 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 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 sales of the partially regulated plant would not necessarily be 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 the operation of the order. They should be adopted in this order to complement the pooling requirements on fully regulated plants adopted herein.

"Supply" plants are the second category of plants for which standards for pooling must be provided. While the preponderance of handlers on the Middle Atlantic market receive all their milk directly from producers, there are a number of supply plants which have been supplying milk to distributing plants in the Delaware Valley area in particular. In addition, from time to time, supplemental supplies are secured from plants not regularly associated with the market.

A supply plant should be fully regulated in any month during the period of September through February in which at least 50 percent and in any month during the period of March through August in which at least 40 percent of its dairy farmer receipts are moved as fluid milk products to a plant(s) which meets the pool distributing plant standards with respect to its total milk receipts.

The lower percentage standard for the March–August period appropriately recognizes that the demand for the supply plant milk is less during the months of generally flush production than during the other months of the year.

A supply plant meeting these shipping requirements nevertheless should not qualify as a pool plant in any month in which a greater proportion of its qualifying shipments are made to a plant regulated under another Federal order than to a plant(s) regulated under the order here adopted.

A supply plant, the milk supply from which is needed in the short production months, is an integral part of the marketing supply. To avoid uneconomic movement of milk, therefore, provision is made whereby a supply plant that was a pool plant under this part (or under any of the currently separate Orders No. 3, No. 4 or No. 16) each of the immediately preceding months of September through February will retain such pooling status during each of the following months of March through August. This will provide producer status for dairy farmers shipping to plants which are thus recognized as regular suppliers of the market.

A plant should be permitted to withdraw from pool status, however, at the operator's option in any of the months of March through August in which it does not meet the current shipping requirements for a pool supply plant. In such case, it could again acquire pooling status only by meeting the current shipping requirements.

To protect the integrity of regulation, a plant eligible for automatic pooling status during the flush months of March through August should be canceled effective the first day of any month in which another supply plant is qualified for pooling through shipments of fluid milk products to the same distributing plant(s) through which such automatic pooling status was accomplished.

The provisions described above relating to the qualification standards for supply pool plant status are currently provided for under the Delaware Valley order and their adoption under the combined order is equally appropriate.

There are presently four reserve processing plants in the combined market which have been pooled under one or the other of the separate orders under special provisions adopted to insure their continued pooling. In each case, the plant in question historically has been an intricate part of the regulated market, primarily as an outlet for the market's reserve supplies. None of these plants, however, could now be expected to meet even minimal shipping standards.

Each of two such plants associated with the Delaware Valley market have been pooled in conjunction with the operator's (handler's) distributing plant under a system pooling arrangement in which the combined operation of the reserve plant and the distributing plant

has qualified both plants under the pooling standards for distributing plants. A reserve processing plant under the Upper Chesapeake Bay order and a similar plant associated with the Washington, D.C., order each have held pooling status under its respective order through a provision which prescribed the minimum association for such a plant for such status, adopted to cover that particular operation. Such provision, of course, also would have pooled any other plant meeting the prescribed requirements.

While it is not essential that a reserve processing plant, per se, hold pool plant status under this order for the purpose of handling the market's reserve supply, more orderly marketing and efficiency of handling will prevail if continuing pool status is provided for these plants which have long held such status under the several orders.

For three of these plants a provision (partial system pooling) essentially similar to that presently contained in the Delaware Valley order would reasonably accommodate the situation. However, certain safeguards must be taken to insure that handlers are not encouraged to develop additional milk supplies solely for manufacturing uses. Thus, such pooling procedures should be made available to a multiple-plant handler only with respect to his reserve processing plant operation which was a qualified pool plant under the Delaware Valley, Upper Chesapeake Bay or Washington, D.C., order in each of the 12 months immediately preceding the effective date of the combined order adopted herein and only if the handler files with the market administrator prior to such effective date, his written request for continued pool plant status for such plant.

Under the provision herein adopted, the reserve processing plant would continue to hold pool plants status in each consecutive succeeding month in which it, in combination with a pool distributing plant, operated by the same handler meets the performance standards of a pool distributing plant as set forth in § 1004.8(a).

A handler operating a reserve processing plant, which has been system pooled with such handler's distributing plant located in Philadelphia, also operates a distributing plant located in Baltimore. If the system pooling were extended to cover the three plants (the manufacturing plant and the two distributing plants) the handler conceivably could substantially expand his manufacturing operation and still have assurance of continuing pooling status for such plant. The plant is being provided pool status to insure its availability to assist in handling the reserve milk supply of the market. If the handler were able by virtue of system pooling to further expand his milk supply for such plant, the facility might not be available to handle reserve milk from other handlers. It would be inappropriate therefore to further extend the system pooling beyond a two-plant system.

As previously noted, the accommodation for pooling manufacturing plants as herein provided is designed to cover the several reserve milk processing operations which have had long-standing association with the fluid milk market. However, if a handler should fail to qualify such an operation in any month, he appropriately should forfeit his right for system pooling such plant thereafter. In that event, the plant could again acquire and maintain pool plant status under the combined order only if it were to meet the individual plant performance standards for pooling.

The opportunity for system pooling also should not be available to any reserve processing plant if the operator operates any other plant which is used to qualify a supply plant for pooling, or if the reserve processing plant meets the pooling requirements of another Federal order.

Because the plants here being considered, as well as a reserve processing plant operated by a cooperative association as discussed immediately following, would not ordinarily ship milk to other pool plants, it is possible that milk could be received at such plant(s) from dairy farmers which does not meet the quality requirements for disposition in the marketing area as fluid milk. As a further condition of pooling, therefore, it is necessary that the handler, in filing his reports pursuant to § 1004.30, be required to notify the market administrator each month of any such receipts. Such milk should not acquire pooling status, but should be considered as milk received from a "dairy farmer for other markets" and assigned to Class II disposition for reasons later set forth in these findings.

Provision also should be made whereby pool plant status is accorded any reserve processing plant which is operated by a cooperative association if the milk of at least 70 percent of its member milk is received throughout the month at other pool plants, including the milk of such producers which is delivered to the pool plants by the cooperative association acting as a handler on bulk tank milk. A similar provision in the Washington, D.C., order presently is the basis for the pooling of a plant located in Laurel, Md., and operated by the Maryland and Virginia Milk Producers Association, the only member cooperative of the Pennmarva Federation which owns plant facilities.

A substantial volume of the milk on the combined market is moved by cooperatives from the farms of member producers directly to their buyers in amounts required for Class I use. Much of the milk on the market not so needed, and for which there is no other Class I outlet available, is moved to the Laurel plant for processing. Other cooperatives, as well as proprietary handlers, also utilize the Laurel facilities as an outlet for their reserve milk supplies.

The nature of the operations of this plant, which performs a necessary balancing function in the market, would not result in pool status under the standards here provided for the pooling of distributing or supply plants, or for the system pooling of certain other reserve processing plants. It is appropriate, therefore, that the Laurel plant, or any other such cooperative-operated plant which meets the performance requirements herein set forth for such a plant be accorded pooling status under the combined order. Such performance standards describe a particular operation in the combined market and will implement orderly marketing by accommodating the pooling of all of the milk regularly associated with the market.

The pooling standards herein adopted covering the various plant operations are reasonable and appropriate under current conditions in the combined marketing area. Generally, they are similar to those included in the three current orders and will provide for the regulation of all of the plants presently regulated under one or the other of the three orders. In conjunction with other provisions of the order, such standards will enable the dairy farmers associated with qualified plants to share in the equalization pool throughout the year and thus will help to insure orderly and stable marketing conditions throughout the area.

The order proponent proposed an additional pooling standard for supply plants and certain additional provisions to the "dairy farmer for other markets" definition, principally for the purpose of deterring the shifting of plants and/or dairy farmers in and out of the market for the purpose of exploiting the "base-excess" payment plan. Under their proposal, a supply plant which was a nonpool plant in any of the months of August through November could not acquire pooling status in any of the subsequent months of March through June in which it was owned by the same handler, an affiliate of the handler, or by any person who controls or is controlled by the handler.

Similarly, a dairy farmer whose milk was received as other than producer milk during any of the months of September through February by a handler, affiliate, or person controlling or controlled by such handler could not acquire producer status in the following months of March through August in which his milk was received by the handler at a pool plant, unless such handler could substantiate that not less than 120 days of the dairy farmer's production was received as producer milk during the preceding September–February period, or that all of the handler's receipts from such dairy farmer as other than producer milk during the September through February period was neither approved for fluid disposition nor disposed of for fluid consumption.

The present incentive for a handler to shift regulation of his plant seasonally and for producers to shift between Delaware Valley and New York-New Jersey stems chiefly from the flexibility provided in the order for acquiring and transferring bases.

Producer proponents recognized this problem in the structuring of the base plan provisions which they proposed for incorporation in the combined order. The proponent witness stated on the record that if their proposed base plan were

adopted, the problem they sought to alleviate would largely be eliminated.

In large part, the provisions of proponent's proposed base plan are adopted for the combined order. Under such provisions, a base may be transferred only in its entirety to another dairy farmer and only upon death of the baseholder or the discontinuance of milk production of such baseholder because of military service.

This procedure should minimize the incentive for a plant to shift regulation seasonally from Order 2 (or from the New England order markets, which employ the "Louisville" plan) to the combined order and vice versa.

It is concluded in light of the considerations set forth herein that the additional provisions in the "dairy farmer for other markets" definition proposed are not necessary. Neither is there need for a provision denying pooling status to a supply plant during flush months of production if the plant was a nonpool plant in any of the preceding short production months. The terms of the combined order here adopted will insure an equitable sharing among those producers associated with the market of the total proceeds from the sale of their milk and, accordingly, additional conditions for pooling are not needed.

Each of the respective orders contains a "dairy farmer for other markets" definition to distinguish those dairy farmers whose milk, under certain conditions, may be received at pool plants, but which are not associated with the market to a sufficient degree to be considered a part of the regular milk supply and, hence, to acquire producer status.

Under the terms of the base plan herein adopted, each producer's base will reflect his degree of association with the fluid market. Hence, there is no need for a "dairy farmer for other markets" definition, except to designate those dairy farmers whose milk may be received at reserve processing pool plants but is not qualified for disposition as fluid milk in the marketing area.

Handler—The impact of regulation under an order is primarily on handlers. The handler definition identifies those persons from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value.

The handler definitions under the respective orders are essentially similar. However, to implement regulation to the fullest extent possible, the definition under the combined order should be sufficiently broad to include all the persons to whom handler status is presently accorded under any of the individual orders. These include the following persons which are common to the three orders: (1) The operator of a pool plant; (2) the operator of a partially regulated distributing plant; (3) the operator of another order plant; (4) a cooperative association with respect to milk which it causes to be diverted to a nonpool plant; (5) a cooperative association with respect to milk which it causes to be delivered to a pool plant in a bulk tank truck owned or operated by, or under contract to, the association, unless both the cooperative and the operator of pool plant have given prior notice to the market administrator that the plant operator intends to be the handler for such milk and is purchasing the milk on the basis of farm weights determined by farm tank bulk calibrations and butterfat tests based on samples taken at the farm; and (6) a producer handler. In addition, the handler definition should include the operator of an unregulated supply plant, a governmental agency in its capacity as an operator of a plant disposing of fluid milk products on routes in the marketing area and any other person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a pool plant.

The handler who receives milk from producers is held responsible under the terms of the order for reporting receipts and utilization of such milk and for proper payment to producers and to the pool. To implement administration of the order and to better insure payments to producers, financial responsibility for producer milk under the order is placed on the operator of the pool plant where such milk is received or determined to have been received, and under specified circumstances, on cooperative associations. The financial status of such persons in the market is such as to minimize the possibility of nonpayment. In addition, in the event of nonpayment, there is reasonable assurance of the existence of assets from which monies may be recovered through appropriate legal processes.

An other order plant which enters the orbit of regulation under this order either through route disposition or by shipment of packaged or bulk milk is partially subject to regulation under this order. It is necessary that the operator of such a plant have handler status in order that the market administrator may require the necessary reports to determine such plant's status and the operator's obligation, if any, under this order.

Inclusion in the handler definition of any person operating a partially regulated distributing plant or an unregulated supply plant, as well as a producer handler, is necessary in order that the market administrator may require the necessary reports to determine the continuing status of such individuals and in the case of distributing plants, the extent of the obligations, if any, to the producer-settlement fund.

Under the marketwide pool arrangement herein provided, it is intended that all milk which has established a substantial and bona fide association with the local market shall participate in the equalization pool. The handler definition, therefore, should be sufficiently broad as to include a cooperative association with respect to producer milk diverted to a nonpool plant for the account of the association.

Milk not needed by local handlers can generally be most economically handled by movements directly from the farm to the ultimate destination. Unless the cooperative is permitted to be the handler on such milk it is likely that cooperative members would bear the entire burden of carrying the market's reserve supply since handlers could continue to receive only that volume of milk needed to meet their immediate requirements and cooperatives would be forced to handle the remaining milk as other than pool milk. Providing handler status to a cooperative association with respect to milk which it diverts to nonpool plants not only will better insure orderly marketing but also will promote efficient utilization of producer milk in the highest available use class. This will result because a cooperative association can divert milk for Class I use to an unregulated nonpool plant which otherwise might be used or disposed of by a proprietary handler in Class II.

The second role of a cooperative as a handler without a plant is the delivery of farm bulk tank milk of producer members directly from farms to pool plants. Under the current arrangement for marketing the milk of producers using farm bulk tanks, the amount of milk delivered by any such producer, and the butterfat test thereof, can be determined only by measurement at the farm and from butterfat samples taken at the farm. After the milk has been pumped into tank trucks and commingled with the milk of other producers, there is simply no opportunity to measure, sample, or reject the milk of an individual producer. It is essential, however, that the producer be paid on the basis of such weights and tests.

Since the pickup is controlled by a cooperative association or by a person under contract to, or under the control of, such association, only the association can determine the individual producer weights and tests. Accordingly, the association should assume the role of responsible handler unless through agreement between the association and the operator of the plant where the milk is received, notice to the market administrator, the plant operator assumes the role of responsible handler and agrees to purchase the milk on the basis of farm weights and tests. When the cooperative association is the responsible handler, the milk is treated as a receipt of producer milk by the cooperative association at a pool plant at the same location as the pool plant at which the milk was physically received. The milk is then treated as a transfer by the cooperative association to the pool plant operator.

The order specifies that handlers shall pay a cooperative association which is a handler pursuant to § 1004.10(c) at the uniform price for the milk received directly from producer's farms. This will simplify order accounting procedure. It also will facilitate any audit adjustments necessary.

Payments into and out of the producer-settlement fund will be made directly between each proprietary handler and the market administrator. This will establish accounting and payment responsibility. When settlement is made through a cooperative association handler at class prices and the cooperative

pays into or receives from the producer-settlement fund on bulk tank milk delivered to another handler, a third party unnecessarily enters into the transaction. By eliminating the cooperative as an intermediary between the regulated proprietary handler and the market administrator, problems of financial responsibility, enforcement, and subsequently audit adjustments are greatly reduced.

Both the Washington, D.C., and Upper Chesapeake Bay orders presently exempt from pooling under specified conditions, the plant of a government agency distributing fluid milk products in the marketing area. Similar provisions appropriately must be incorporated into the merged order. In order that the market administrator may have the necessary information to confirm the status of such an agency and as an aid to confirmation of movements of milk between such an agency and pool handlers, it is necessary that the government agency be accorded handler status.

Any sales to such a government agency would be classified as Class I. Any receipts at pool plants from such an agency would be assigned to Class II. Since such agencies do not share their Class I sales with other producers they should not be permitted to share in the Class I use of any milk in excess of their own needs which may be disposed of to pool handlers.

Finally, for the purposes of reporting and verification only, it is necessary that handler status be accorded any other person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. In the Delaware Valley sector of the market, it is not uncommon for brokers and dealers with no plant facilities to contract with cooperative associations for a milk supply, and then to arrange with proprietary handlers in the market to supply their requirements. Sometimes the broker or dealer takes title to the milk and sometimes not. While in such situations that order has held, and under the terms here adopted will continue to hold, the proprietary handler responsible for payments to producers, nevertheless there are obvious circumstances in which he has little, if any, specific knowledge with respect to the pickup and movement of the milk and payments to producers. In such case, the market administrator may find it necessary to review promptly the books and records of persons other than the proprietary handler to verify receipts, utilization, and payments.

Producer-handler. Each of the orders here being merged exempt from pricing and pooling any person (1) who operates both a dairy farm and a distributing plant with route disposition in the marketing area, (2) who purchases no milk from other dairy farmers and (3) whose source of supply of fluid milk products is essentially his own farm production and purchases from pool plants. The Washington, D.C., and Delaware Valley orders have not limited, in any way, the volume of Class I milk that such an individual might purchase from pool plants. The Upper Chesapeake Bay order on the other hand has limited such purchases to not more than 10,000 pounds a month.

There are no known operations of this kind under the present Washington, D.C., order, only one such operation under the Upper Chesapeake Bay order and no such operations in the area of extension, i.e., the remainder of the State of Delaware and Loudoun County, Va. Until recently producer-handler operations in the Delaware Valley market were also of little consequence.

The situation in the Delaware Valley market changed significantly in September 1968 when a handler with own farm production, who customarily had bought the remainder of his milk supply directly from members of a major cooperative (a bargaining cooperative), decided to acquire producer-handler status by purchasing plant milk rather than buying milk directly from dairy farmers and thus avoiding pooling his own production. In so doing, he terminated purchases from producer members of the bargaining cooperative, closing out a supply arrangement of more than 20 years. The change in status of this operation prompted a proposal to modify the producer-handler definition under Order 4 which was considered at the hearing held in Philadelphia, Pa., on November 7–9, 1968 (33 F.R. 16004). The Deputy Administrator's recommended decision in this matter (34 F.R. 6798) was officially noticed at the hearing on the record of which this decision is based. The findings with respect to that issue were adopted by proponents' witness as the current facts relating to the situation in the Delaware Valley market.

It is concluded that a 10,000-pound limit should be placed on the quantity of fluid milk products that a producer-handler may receive from pool plants during any month and still retain his exemption from pooling. Such limit on the quantity of a producer-handler's supplies of fluid milk products other than his own farm production is necessary at this time in this combined market to insure continuing orderly marketing and an equitable sharing among producers of the proceeds from the sale of their milk.

The Deputy Administrator's findings and conclusions (34 F.R. 6798) in support of this limitation with respect to the Delaware Valley market, are equally applicable to the combined market and are adopted and incorporated as a part of the findings and conclusions of this decision as follows:

> * * * The handler's new supply source is a pool plant of an operating cooperative association whose primary membership is among producers in the adjacent New York-New Jersey market. This cooperative is selling the handler, in his new role as a producer-handler, plant milk delivered to his plant at the order Class I price for that location. Hence the handler is getting his supplemental milk at the same price which he would have been required to account for Class I milk received directly at his plant from dairy farmers while not incurring the additional costs of receiving, payrolling, and related services necessarily experienced by a handler on direct receipt milk.
>
> Under usual circumstances a handler buying plant milk from another handler would have to pay for such milk a price reflecting the minimum class prices prescribed by the order plus the selling handler's costs for services performed and for extra plant handling and, in addition, a reasonable profit. It is questionable under such circumstances and the conditions of this market whether any handler with own farm production could advantageously give up his regular producers for the purpose of acquiring producer-handler status except under circumstances where his own production represented a preponderance of his needs.
>
> The handler in question produces close to 200,000 pounds of milk per month, better than five times the market average. His own production represents nearly half of his Class I sales. It seems most improbable that this handler would have seriously considered giving up his regular producers except for the fact that instead of realizing the blend price for his own farm production he could now realize the order Class I price for such production without incurring the cost of maintaining the reserve supplies associated with his Class I sales.
>
> Without appropriate amendatory action it is now clearly prospective that any handler in this market with own farm production can readily assume producer-handler status solely for the purpose of avoiding pooling of his own production.
>
> * * * Experience under Federal orders generally has demonstrated that effective regulation of the market can be insured without direct involvement of individuals who produce, process and distribute essentially milk of their own production and who buy no milk from other dairy farmers. Individuals who assume a dual role of producer and handler and who must carry their own balancing supplies seemingly have no demonstrable advantage either as a producer or a handler.
>
> * * * Clearly in the immediate situation the handler at issue is purchasing far above normal balancing supplies. His operation bears essentially no resemblance to that of producer-handlers in the traditional view.
>
> In view of the foregoing, a substantial handler buying more than an incidental amount of supplemental supplies should not have status as a producer-handler. To the contrary, as has been previously stated, to hold such status an individual should handle preponderantly only his own farm production.
>
> For the subject handler 5 percent of his own production represents approximately 10,000 pounds which is about 2½ percent of his total Class I sales. A limitation of 10,000 pounds obviously would deny this handler continuing producer-handler status. Since no other problem with producer-handlers was cited, it is concluded that such limitation on a producer-handler's purchases will best insure against the unintentional involvement in regulation of producer-handlers as a group. At the same time it should be effective in deterring larger handlers with own farm production from evading the pooling of such production by seeking producer-handler status.

Producer. The term "producer" defines those dairy farmers who constitute the regular source of supply for the regulated market, and to whom the minimum prices specified under the order must be paid. Milk eligible to be received at a pool plant must meet quality standards for fluid disposition in the marketing area. Such milk appropriately should share in the equalization pool unless it falls in the category of milk received from a "dairy farmer for other markets",

from a producer-handler, under any Federal order, a Government agency as a handler pursuant to § 1004.10(e) or from persons defined as producers under another Federal order.

For reasons previously stated in this decision relating to "dairy farmer for other markets," milk from such source should not share in the equalization pool of this market. Similarly, since producer-handlers and any governmental agency acting as a handler pursuant to § 1004.10 (e), do not share their Class I sales with other producers, they too should not share in the blend price as to any of their excess milk disposed of to a pool plant.

The concept of providing producer status for any dairy farmer with respect to his qualified milk physically received at a pool plant is common to Federal orders generally. Even though producer status is established on the basis of receipt of milk at a pool plant (with specified exceptions) it is recognized that the orderly and efficient handling of reserve milk may require the occasional diversion of the milk of individual producers from a pool plant to another plant. The direct movement of the milk from the producer's farm to the plant of ultimate disposition avoids the expense and handling which would be involved if the milk were required to be first delivered to the pool plant where normally received and then transferred to the other plant.

There is no need to provide for diversions between pool distributing plants since the milk would retain producer status regardless of the plant of physical receipt. Administration of the order will be implemented if the operator of the plant of physical receipt is held the responsible handler. Possible problems which might otherwise arise because milk from a particular farm was received at more than one pool plant during the month will be minimized since cooperative associations acquire the role of responsible handler on milk which they cause to be picked up from a farm bulk tank and delivered to a pool plant.

There may be situations where the milk can most efficiently be disposed of by diversion to one of the reserve milk plants having pool plant status. The order should provide therefore that milk may be diverted by a proprietary handler from a pool distributing plant to a reserve processing pool plant.

In addition, in the interest of the orderly and efficient handling of reserve milk under this combined order, provision should be made for diversions to "other order" plants for Class II use. By requiring an agreement between the diverting handler and receiver on Class II use when milk is diverted to an other order plant, the possibility of any portion of the milk being assigned to Class I will be minimized. However, in the event that the receiving handler does not have sufficient Class II utilization to cover the requested Class II assignment, a portion of the milk so moved would necessarily be assigned to Class I. In such a situation, it would not be reasonable to presume that the diverted milk continues in fact to be a part of the Middle Atlantic reserve supply. When part or all of the milk so moved is used for fluid purposes in the receiving plant, the milk obviously is needed for fluid use in the receiving market and appropriately should be considered a part of that market's fluid supply.

It is possible that other order milk may be received (as diverted producer milk) at a plant under this order for manufacturing uses. Such milk, as part of the other order's regular milk supply appropriately should be permitted to retain producer milk status under such other order.

Provision for diversions to nonpool plants also is desirable to facilitate the orderly and efficient disposition of the necessary market reserve. There should be some safeguard, however, against association of an excessive supply of milk with the pool through the diversion process.

During the months of September through February, when milk production is generally lowest, it is necessary to provide diversion privileges to nonpool plants only to cover weekend receipts and nominal reserves resulting from day-to-day variations in Class I sales. Diversions to nonpool plants (including an other order plant if the diversion is for Class II use), other than a producer-handler, during any month of this period therefore are limited to 10 days' production of any producer. In addition, as an alternative to the 10-day limit during the months of September through February and to permit maximum efficiency in handling reserve milk, diversion on a percentage basis should be provided. A cooperative association should be able to divert to a nonpool plant up to 15 percent of the milk of its producer members during any such month, and a proprietary handler should be permitted to so divert up to 15 percent of the total nonmember producer receipts at his pool plant during any such month.

There is little possibility in this market that a handler may take on unneeded milk during the March–August period for the purpose of having milk for Class II use. Hence, there is no need to limit diversions during this period when the problem of economic handling of the market's reserve supply is greatest. Handlers, including cooperative associations, therefore should have unlimited diversion privileges during this period.

While diverted milk is included as producer milk by virtue of being deemed to have been received by the diverting handler at a pool plant at the location of the plant from which diverted, nevertheless, for purposes of applying location adjustments or the direct delivery differential, milk diverted in the following manner should be treated as though received at the location of the plant to which diverted:

(1) Diverted from a pool plant at which no location adjustment credit is applicable, to a plant at which a location adjustment credit is applicable.

(2) Diverted from a pool plant at which a location adjustment credit is applicable, to a plant at which a greater location adjustment credit is applicable.

(3) Diverted from a pool plant in the direct-delivery zone to a plant outside such direct-delivery zone.

Unless this procedure is followed there is incentive for any handler operating a manufacturing plant to associate an excessive quantity of milk with his distributing plant(s) and then regularly receive the milk at his manufacturing plant as diverted milk up to the limits allowed. Distant producers thus could receive the city blended price when in fact, their milk was moving regularly to a nearby manufacturing plant. Pricing diverted milk in the manner here adopted will insure that the pool will not subsidize transportation costs which, in fact, are not incurred.

The direct delivery differential compensates producers in part for the added costs involved in moving milk directly to city plants. However, when milk is diverted from city plants to a nearby manufacturing plant in the production area, these additional costs are not incurred. In such circumstances where the milk is not physically received in the direct delivery zone, there is no justification for assessing such differential on the responsible (diverting) handler.

Milk of producers which is received at pool plants directly from the farm where produced, or by a cooperative association in its capacity as a handler in farm bulk tank milk, or that which is diverted in accordance with conditions set forth in the producer definition, is considered to be "producer milk".

Other source milk. Other source milk is defined as all skim milk and butterfat utilized by a handler in his operation, except producer milk, fluid milk products received from pool plants, milk received from a cooperative in its capacity as a handler on farm bulk tank milk, and inventory of fluid milk products on hand at the beginning of the month. It would include all skim milk and butterfat represented by fluid milk products received from plants other than pool plants and all manufactured milk products from any source received during the same or prior months, including those from the plant's own manufacturing operation which are reprocessed or reconverted into another product during the month. Also included as other source milk are receipts in a form other than a fluid milk product for which the handler fails to establish a disposition.

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 disposition records of the plant. 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 receipts and disposition. Otherwise, the handler with improper 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 in a form other than a fluid milk product for which the handler fails to establish a disposition. Otherwise, a handler, by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim

milk or other fluid products, could gain a competitive advantage over other handlers in the market.

Certified milk. The definition of certified milk as now contained in the Delaware Valley order should be included also in the combined order without change. This definition identifies the milk disposed of in the marketing area either on routes or through other handlers which originates from a certified milk operation located in New Jersey. This is the only source of certified milk known to be disposed of in the marketing area. The volume of sales is not substantial, and such milk, over a long period, has been disposed of in the market.

Order proponent proposed, and there was no opposition, that the manner of handling certified milk under the Delaware Valley order be continued under the combined order.

(b) *Classification and allocation.* Under the classified use plan currently provided in the three respective orders and herein adopted for the merged order, it is necessary to insure that all milk and milk products are fully accounted for by the handler who is responsible for accounting and reporting to the market administrator and for making payments to producers. Accounting for milk and milk products on a skim milk and butterfat basis at each individual plant and pricing in accordance with the form in which or the purpose for which such milk and butterfat is used or disposed of as either Class I milk or Class II milk is the most appropriate means of securing complete accounting on all milk involved in market transactions.

Milk is disposed of in the market in a wide variety of forms, representing different proportions of skim milk and butterfat components of milk which may be greatly changed from the proportions of skim milk and butterfat in milk as it is first received from producers. Uniformity in accounting may best be accomplished by using the skim milk and butterfat accounting procedure.

The classification provisions of Orders 3, 4, and 16 are essentially similar except with respect to the classification of products in fluid form with a butterfat content above the range of milk. Under Order 3, essentially all products in fluid form intended for fluid consumption have been classified in Class I. Under Order 16, cream (18 percent or more butterfat content) has been Class II and half-and-half (butterfat content of at least 12 percent but less than 18 percent) has been classified 50 percent Class I and 50 percent Class II, by weight. Under Order 4 cream (18 percent or more of butterfat) has been classified in Class II and half-and-half (except sour) has been classified as Class I. Inventories of fluid milk products on hand at the end of the month have been classified in Class II under each of the orders, except that under Order 4 packaged inventories have been classified in Class I. Except also for variations in the application of the classification provisions with respect to sterilized products in hermetically sealed containers, classification has otherwise been identical.

Official notice is taken of the actions taken by the Assistant Secretary on January 20 and 22, 1970, respectively, suspending certain of the classification provisions under Order 16 and certain provisions of the fluid milk product definition under Order 3 (35 F.R. 1044). As a result of these actions only milk and other fluid milk products with a butterfat content within the range of milk and below are now classified in Class I under Order 3.

The record evidence with respect to classification matters was fundamentally directed to resolving the differences in classification of particular products among the orders rather than to consideration of any basic principles of classification. This decision, therefore, is necessarily directed to the resolving of the present differences in classification. There is, however, obvious need for a full exploration of the entire classification structure at an early hearing.

Under the classification scheme here adopted, Class I milk includes all milk and skim milk (including concentrated milk and reconstituted milk and skim milk), buttermilk, cultured buttermilk, flavored milk, milk drinks (plain or flavored), filled milk, and mixtures in fluid form of cream and milk or skim milk containing less than 10 percent butterfat, except: Ice cream, ice cream mixes, ice milk mixes, milkshake mixes, eggnog, yogurt, condensed and evaporated milk, and any product which contains 6 percent or more nonmilk fat (or oil).

Under some circumstances, nonfat milk solids may be utilized through reconstitution or fortification in the preparation of fluid milk products. 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 with the solids. The volume of the reconstituted or fortified fluid milk product classified in Class I should 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, is classified as Class II.

As a convenience in drafting the order, the products to be classified as Class I are defined as "fluid milk products." All skim milk and butterfat used to produce products other than fluid milk products as set forth above should be Class II.

As previously indicated, cream has been a Class II product under Orders 4 and 16 and since the suspension action of January 22 also under Order 3. The reclassification of cream as Class I under Order 4 was most recently considered and denied by the Deputy Administrator in his recommended decision of April 18, 1969 (34 F.R. 6788), official notice of which is taken. In consideration of this matter the Deputy Administrator found as follows:

The matter at issue does not appear to be one of substantial proportion. During the past 5 years, sales of cream for fluid use by Delaware Valley handlers have declined approximately 30 percent while total Class I sales of fluid milk producers have increased about 20 percent with the result that the volume of fluid cream sales is less than 1 percent of the volume of total fluid milk product sales. Obviously, under such circumstances, a change in the classification of cream could have little overall effect on producer returns. A Class I classification would, however, increase handlers' cost for cream and thus further deteriorate an already unfavorable competitive price relationship between cream and vegetable fat substitutes and thus likely reduce even further the volume of cream disposed of for fluid consumption.

The situation in the Upper Chesapeake Bay and Washington, D.C., markets is substantially identical to that found to exist in the Delaware Valley area. For example, the Class I utilization (product pounds) of cream and cream mixtures in the Order 3 market declined 14 percent since 1964. During 1968, about 2 percent of total producer receipts classified as Class I was sold as cream and cream mixtures for fluid use.

Proponents for order merger concluded that a Class II classification for cream, as compared to a Class I classification, would result in no significant difference in returns to producers if a single butterfat differential, as herein adopted, were applicable.

The principal product in the "mixture" category sold in the market here being considered is commonly referred to as (and generally is labeled) "half-and-half". This product is a mixture of cream and milk or skim milk with a butterfat content in excess of 10 percent (12 percent in some segments of the market) but less than 18 percent, usually approximating the lower of the range. This product is sold in the market in a variety of containers ranging from half-ounce (individual servings of the product for use as coffee whitener and referred to as "creamers") to half-pints and in some cases larger containers. However, as in the case of cream, the sale of half-and-half does not represent a significant percentage of the market's total fluid disposition. By far the larger outlet for the product is with hotels and restaurants. Such businesses can, as an alternative to purchasing the finished product, purchase nonfat dry milk and cream and reconstitute the product. In such circumstance, producers would receive no more than the Class II price.

It is concluded that milk and cream mixtures containing 10 percent or more butterfat should be Class II. Such classification will have no significant effect on producer returns but will implement the disposition of the excess butterfat in producer milk.

Certain other mixtures historically have been classified as Class II under the respective orders either by specific designation or on the basis of being "sterilized" and "in hermetically sealed" containers. These latter terms were specifically incorporated in the respective orders to make clear that canned evaporated and condensed milk were not intended to be classified as other than Class II. Continuing technological advancements in both processing and

packaging have created considerable difficulty in the administration of the orders, particularly with respect to the classification of products in various types of plastic, paper and foil-lined containers which some processors argue fall in the category of "hermetically sealed" containers.

Neither sterilization nor packaging necessarily changes "the form in which or the purpose for which" milk or a particular milk product is used and, accordingly, cannot appropriately be relied upon for classification purposes. The fluid milk product definition adopted (except as herein specifically discussed) will provide a Class I classification for the same products contemplated under the present classification provisions of the respective orders.

Inventories of fluid milk products in packaged form on hand at the end of the month should be classified as Class I. Inventories in bulk should continue to be Class II. This procedure for handling ending inventories conforms with that proposed by proponents and is identical with that provided under the present Delaware Valley order. Orders 3 and 16 now provide that end-of-the-month inventories in both bulk and packaged form will be classified as Class II.

This treatment of inventories will tend to minimize any possible differences in classification between a handler's internal accounting and his reports to the market administrator. Handlers may consider products loaded on trucks and parked on, or adjacent to, the premises as being in inventory. Some also may consider products on hand in distribution depots or in transport as being in inventory. The classification procedure herein adopted should eliminate any difficulties in this respect. In addition, it will tend to minimize month-to-month fluctuations in the pool obligation of high utilization handlers.

In the first month in which this provision is in effect, it is provided that a reclassification charge will be applicable in the identical manner as in the past with respect to those handlers who have been regulated under Orders 3 or 16. In subsequent months, a reclassification charge will be applicable only on bulk inventory which is assigned to Class I. However, to insure that all handlers pay the current month's Class I price for producer milk disposed of during the month, it is provided that if the Class I price increases, the handler will be charged the difference between the Class I price for the current month and the Class I price for the preceding month on the quantity of ending inventory assigned to Class I in the preceding month. Likewise, if the Class I price decreases, the handler will receive a corresponding credit.

To accommodate this procedure, the allocation section of the order provides that packaged fluid milk products on hand at the beginning of the month shall be subtracted from Class I utilization as one of the first steps in the allocation procedure. However, an exception is made with respect to the first month of operation for those handlers who have been regulated under Orders 3 or 16 and for any plant in the month in which it first becomes regulated. Opening inventory of packaged fluid milk products in these circumstances are allocated to available Class II utilization in the plant during the month. This procedure will preserve the priority of assignment of current producer receipts and minimizes the application of any compensatory charge. Inventories of fluid milk products in bulk form, in all circumstances, will continue to be handled under the identical procedures currently provided in the respective orders.

The transfer provisions of the combined order are essentially those of the three respective orders with one exception. Orders 3 and 16 now provide that movements of any fluid milk product to a nonpool plant (except an other order plant, a producer-handler plant, or a plant of a government agency in its capacity as a handler as defined thereunder) may be classified as other than Class I only if the transferor plant is located within specified distances from the market. The provisions of Order 4 provide no such condition and order proponents proposed that the Order 4 provisions be adopted. This procedure is concluded to be appropriate and, accordingly, the order provides that transfers or diversions to nonpool plants shall be classified in accordance with the specified procedure without regard to location of the transferor plant.

(c) *Class prices, butterfat differentials and location differentials.* The price per hundredweight for Class I milk under the combined order should be a specified price of $7.11 to which should be added any amount by which the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture for the preceding month on a 3.5 percent butterfat basis, exceeds $4.33. The Class II price should be established at the same level and through the same pricing formula presently provided in the Washington, D.C., and Upper Chesapeake Bay orders. A direct-delivery differential of 6 cents per hundredweight should be applicable to all producer milk received at plants located 55 miles or less from the city hall in Philadelphia. Finally, the Class I and blended prices applicable at all plant locations more than 55 miles from the city hall in Philadelphia and also more than 75 miles from the nearer of the city hall in Baltimore, Md., or the zero milestone in Washington, D.C., should be reduced 1.5 cents for each 10-mile distance or fraction thereof that such plant location is from the nearest of such basing points.

Under the present provisions of the several orders, the Delaware Valley Class I price is $7.17, plus any amount by which the Minnesota-Wisconsin price exceeds $4.33 and the Class I price under both the Upper Chesapeake Bay and Washington, D.C., orders, is the Delaware Valley price less 10 cents. Location differentials applicable to both Class I and blend prices are computed at the rate of 1.5 cents per 10-mile zone and under the Delaware Valley order are applicable at plants located in excess of 45 miles from the nearer of specified basing points in Philadelphia, Trenton, and Atlantic City. Under Order 3 (Washington, D.C.) such differentials are applicable at plants in excess of 75 miles distance from Washington, D.C., and under Order 16 (Upper Chesapeake Bay) they are applicable at plants in excess of 75 miles distance from the nearer of Baltimore and Salisbury, Md.

The Class II price under the three orders is established under identical pricing formulae. However, the Class II price applicable at city plants under the Delaware Valley order is 6 cents above the price under the other two orders. Such order also provides Class II location differential of 5 cents applicable at plants located from 45 to 70 miles from the nearer of the basing points and such differential is increased an additional cent for each additional 70 miles distance or fraction thereof. Through such location adjustments, appropriate Class II price alignment has been maintained between plants regulated under Delaware Valley and plants regulated under adjacent orders. Neither Washington, D.C., or Upper Chesapeake Bay order provides Class II location differentials.

Pennmarva, at the hearing, supported a Class I price level of $7.17 with an additional 20 cents to be applicable whenever the Minnesota-Wisconsin pay price exceeds $4.33 by 15 cents or more. Such price was intended to apply at plant locations outside the States of New Jersey and Pennsylvania and within 75 miles of Washington, D.C., Baltimore or Salisbury, Md., or within the States of Pennsylvania, Delaware, and New Jersey and less than 55 miles from the nearer of Philadelphia, Trenton, or Atlantic City. Under their proposal, plants subject to location differentials would be zoned from the nearest of Philadelphia, Trenton, or Atlantic City. Pennmarva's Class II price proposal was identical with the existing provisions of the Delaware Valley order, with location differentials applicable at all plants in excess of 55 miles of the nearest of Philadelphia, Trenton, and Atlantic City. However, in its brief Pennmarva supported a pricing scheme essentially identical to that herein adopted both with respect to Class I milk and Class II milk.

The Mid-Atlantic Federal Order Committee generally held that there should be no change in the price levels (Class I or Class II) applicable at various plant locations under the several orders. It did, however, support a bracketing scheme for pricing Class I milk.

The matter of bracketing of the Class I price, as has been previously indicated in this decision, was further considered at a reopened session of the hearing and was denied by the Assistant Secretary in his decision of January 20, 1970 (35 F.R. 1017). A national hearing was held in St. Louis, Mo., January 20–23, 1970, and in New York City, on February 17–18, 1970, pursuant to notice thereof published in the FEDERAL REGISTER of December 2, 1969 (34 F.R. 19078), and a supplemental notice published in the FEDERAL

REGISTER of January 13, 1970 (35 F.R. 435), for the purpose of considering proposals for an appropriate economic formula for pricing Class I milk under all Federal milk orders.

The Class II pricing formula and Class II price level under each of the orders here being considered was reviewed in depth at a hearing held in New York City during the period from June 19 through August 4, 1967, and the present pricing was adopted by the Assistant Secretary in his decision of May 9, 1968 (33 F.R. 7184), official notice of which is taken. There is no basis on the record of this hearing for any change in the procedure for pricing or the level of Class II pricing.

The immediate and primary problem to be resolved on this record is the integration of three separate but closely correlated orders into a single regulation which will retain insofar as possible the same interplant price relationships which have existed under the separate regulations.

The Delaware Valley area is by far the largest segment of the combined market, both in terms of producer receipts and Class I sales. This area has historically drawn milk from a much broader supply area than either the Washington, D.C., or Baltimore segment of the market and a substantial part of the supply area for Delaware Valley overlaps the primary portion of the common supply area of Baltimore and Washington, D.C. For much of the area the distance therefrom to Philadelphia and New Jersey is significantly greater than to Washington and/or Baltimore.

If identical pricing were applicable at all plant locations in Philadelphia, New Jersey, Washington, D.C., and Baltimore under the merged order, handlers in the latter two locations would undoubtedly have priority of call on a greater than necessary milk supply while Philadelphia and New Jersey-based handlers might be in need of milk. In such circumstances the members of Pennmarva would undoubtedly direct supplies among handlers as needed. This situation could not, however, promote continued orderly marketing over time since producers delivering from the common supply area to plants in the New Jersey and Philadelphia area would net a lesser return because of the longer haul and hence higher hauling costs.

For the above reasons, it is concluded that there must continue to be some price differential between Philadelphia and Washington, D.C., and/or Baltimore. This conclusion is further supported by the fact that, because of the greater distance involved, the cost to a Philadelphia or New Jersey handler of supplemental milk obtained from midwestern supply sources would be greater than that for a Washington, D.C., or Baltimore-based handler.

In order that the order merger may be accomplished without undue disruption of interplant price relationships, particularly in the major areas of competition, the basic Class I and Class II prices should be established at a level 6 cents below these presently applicable under the Delaware Valley order.

As an adjunct to the pricing scheme and to preserve the interplant price relationships which have prevailed under the several orders, provision should be made for the payment by each handler of a direct-delivery differential of 6 cents per hundredweight on all milk received from producers by such handler at plants located within 55 miles of the city hall at Philadelphia. The payment of such differential in this manner will, with respect to all handlers in the base zone surrounding the Philadelphia area, result in a total obligation for both Class I milk and Class II milk identical with that presently applicable under the Delaware Valley order. It will also preserve the present pattern of returns among most of the present Delaware Valley producers.

Handler costs for Class I milk at plants within 75 miles of either Washington or Baltimore will be increased by 4 cents while their costs for Class II milk will be unchanged. The 6-cent Class I price difference (in lieu of the present 10 cents) as between Philadelphia and Baltimore or Washington will more appropriately accommodate the growing competition among handlers in the three segments of the market and will also substantially implement price alignment at plant locations where location differentials are applicable. The 4-cent Class I price adjustment applicable to handlers in the Washington-Baltimore area will apply on 45 percent of the combined market Class I sales and will result in an estimated 1-cent increase in average producer returns.

As has been previously indicated, the Delaware Valley market has a much larger milkshed than the other two markets and traditionally was supplied largely through supply plants. As a result, established pool reserve processing facilities have been maintained in the supply area and it is not necessary to move milk to the city except for Class I uses. Two such manufacturing plants have long been associated with the Delaware Valley market and under the pooling provisions hereinbefore adopted have been provided continuing pool status. In addition, processing facilities at Westminster and Laurel, Md., have also been provided continuing pool status and such facilities should provide economical outlets for reserve milk in the nearby Maryland and southern Pennsylvania areas from which present Delaware handlers draw a substantial part of their milk supply.

The additional 6 cents which producers will receive through the direct-delivery differential for milk delivered to the Philadelphia area will appropriately compensate them for the additional transportation costs involved in moving milk to that location. This will tend to insure Philadelphia handlers equal access to the market's total milk supply in competition with Baltimore and Washington-based handlers. The order herein adopted will facilitate the movement of any reserve milk supplies directly to milk product processing plants in the production area. Hence, milk not required by Philadelphia area handlers need not be moved to the city. In such event there would be a transportation saving to the producers whose milk was involved and, accordingly, a handler would not be obligated for the direct-delivery differential on milk so moved.

While the Delaware Valley order presently provides three basing points (Philadelphia, Trenton, and Atlantic City) from which location differentials are computed, it does not appear that discontinuing of the use of Trenton and Atlantic City as basing points would change the applicable price at any plant associated with the combined market. For this reason, and also to facilitate administration of the order, the two basing points have been dropped in the merged order.

The Upper Chesapeake Bay order provides both Baltimore and Salisbury, Md., as basing points for pricing purposes. The use of Salisbury as a basing point at this time could reasonably affect the price only at certain plant locations in the southern Delaware area herein being added to the marketing area. The dropping of Salisbury as a basing point was proposed by the currently regulated local southern Delaware handler and was supported by Pennmarva in its post-hearing brief.

As has been previously indicated, most of the milk producers in this southern Delaware area deliver their milk to Delaware Valley and Upper Chesapeake Bay handlers and most of such producers must deliver their milk direct to city plants. The hauling cost for delivery of that milk is significantly greater than the hauling cost experienced by the limited number of producers who market their milk with local southern Delaware handlers. More equitable distribution of returns among producers will prevail, therefore, if Salisbury is eliminated as a basing point.

The Delaware Valley order has provided location differential pricing at plants located 45 miles or more from the specified basing points while under the other two orders location differential pricing is applicable with respect to plants located in excess of 75 miles from basing points. This difference in pricing structure reflects the difference in basic structure of the respective markets. The Delaware Valley market traditionally was supplied through supply plants while the other two markets, being more compact, were direct-delivery markets. The different mileage distances which have been employed in computing location differentials under these orders have implemented appropriate interorder price relationships at country plants and this has been effective in directing an appropriate division of supplies as among the markets.

Pennmarva proposed that the nearby zone, wherein the basic price level is applicable with respect to the Delaware Valley plants, be extended from 45 miles to 55 miles. Such an adjustment would prospectively affect only the Allentown

plant of Lehigh Valley, a cooperative association operating not only manufacturing facilities, but also substantial fluid milk packaging and distributing facilities.

The direct effect of an extension of the basic zone from 45 miles to 55 miles is to increase the one affected handler's (a cooperative) costs of both Class I and Class II milk 9 cents and 6 cents and 5 cents respectively. This will provide greater equity among handlers competing in a common segment of the market. An indirect result will be that such cooperative's member producers will receive a slightly greater share of the total pool proceeds. However, this zone adjustment was proposed and supported by Pennmarva representing the majority of producers on the combined market.

Butterfat differentials. The present butterfat differential provisions of the three orders here being considered were adopted by the Acting Secretary in his decision of August 20, 1969 (34 F.R. 13601), on the basis of the record of a regional hearing held in New York City on June 16–17, 1969. Such provisions are identical as among the three orders and are equally appropriate under the combined order for the identical reasons set forth in that decision. Since the same butterfat differential now applies with respect to both Class I and Class II, handler costs for differential butterfat above or below the basic test at which milk is priced are the same, regardless of use. It is unnecessary, therefore, to "clear" the differential butterfat through the equalization pool. In order that returns to each producer will reflect the value of his milk at the butterfat test at which such milk is received, it is provided that each handler, in making payment to each producer, shall adjust the uniform price(s) by the application of the butterfat differential. This procedure will facilitate handler accounting under the order and administration thereof.

Application of location differentials. The application of location differentials under the separate orders is essentially similar, except that the Delaware Valley order assigns receipts from other pool plants to Class I utilization in excess of 95 percent of receipts from producers, cooperative associations and certain other specified receipts, while the other two orders assign 100 percent of these latter receipts first to Class I. The provisions of the Delaware Valley order are adopted for the merged order.

This assignment procedure was initially adopted in recognition of the fact that a handler operating only a fluid milk business must necessarily have available at his bottling plant some milk in excess of his actual Class I utilization. Such reserve is needed to meet unanticipated fluctuations in day-to-day requirements, route returns and normal plant shrinkage. The situation in the market has significantly changed over the years in that handlers now generally receive at their bottling plant all necessary fluid requirements directly from the farm. Accordingly, under most circumstances, the assignment procedure being prescribed for applying handler location differentials will not result in a Class I assignment on interplant movements. Nevertheless, in circumstances where such assignment does result, any resulting location credits are appropriate.

In light of the pooling standards hereinbefore adopted, some safeguard appropriately must be provided to deter the operator of a pool supply plant from circumventing the intent of the location differential provisions by moving milk from such supply plant through an intermediate pool plant in the base zone as a means of transferring such milk to other pool handlers and acquiring Class I location credits which could not be acquired by direct movements to the plant of ultimate receipt. It is provided, therefore, that in the computation of location differential credits to handlers, transfers from a pool plant to a second pool plant which are in turn transferred to a third pool plant, shall be treated as though the transfer was direct from the originating plant to the plant of ultimate receipt.

(d) *Seasonal incentive payment plan.* The merged order should provide for the payment of producers under a "base and excess" plan as a means of encouraging a continuing uniform level of production throughout the year.

Each of the respective orders presently provides a base-excess payment plan whereby bases are computed on deliveries in the months of July through December and are applicable for the months of March through June, except Washington, D.C., under which bases are applicable only for the three months of April through June. Each of the orders provides very liberal base transfer rules and, in addition, dairy farmers delivering milk to any plant which first enters the market after the beginning of any base-forming period may acquire bases computed as though such plant had been a pool plant throughout the base-forming period.

Because of the ease with which transfers can be accomplished under the current orders and because dairy farmers can earn full bases, even though the plant to which their milk is delivered is pooled as little as a single month, there has been considerable abuse of the base-excess plan, particularly under the Delaware Valley order.

Plants normally associated with the New York-New Jersey market (Order 2), and even the Massachusetts-Rhode Island-New Hampshire market (Order 1), have shifted regulation to the Delaware Valley order (in some instances for a single month) for the obvious purpose of acquiring bases for the dairy farmer patrons. Bases so acquired are then transferred to other producers in the Delaware Valley market. In other circumstances, deliveries from farms have been split so that only base milk is delivered to the Delaware Valley market, and what would otherwise have been excess milk is delivered as producer milk under another order. In still other circumstances, plants have shifted regulation to the Delaware Valley order during the base-operating period, which is the "take out" period under the Louisville seasonal pricing plan under Order 2, and have then been returned to regulation under Order 2 to participate in the "pay back" under the Louisville plan during the fall months.

These numerous abuses of the base plan, which in many situations were also abuses of the Louisville plan under either Order 1 or 2, have resulted in considerable discontent on the part of many producers in the Delaware Valley market.

A proposal for a Louisville payment plan was made on behalf of the Dairymen's League Cooperative Association, Inc. (now DairyLea Cooperative, Inc.) and Northeast Dairy Cooperative Federation, Inc. Both of these organizations are major cooperatives under Order 2 and DairyLea also has substantial membership among Order 4 producers.

Proponents' fundamental purpose in making this proposal was essentially identical with that of proponents for a 12-month base plan; i.e., to encourage a continuing even pattern of production throughout the year and to eliminate interorder shifts of plants and producers for the sole purpose of exploiting the different seasonal pricing plans. In addition, however, proponents for a Louisville plan contended that such a plan was necessary to promote more uniformity of regulation and greater price equity among producers throughout the region.

Both the base-excess plan and the Louisville seasonal incentive pricing plan obviously can be effective in promoting a desirable seasonality of production in any particular market. Although both plans have wide acceptance, the plan provided in any particular market should be one which has the approval of a substantial majority of producers in such market. The cooperatives representing such a majority of the producers in the markets here being merged support a base-excess plan.

A 12-month base plan, with transfers limited to circumstances of death or discontinuance of the dairy enterprise, and with provision whereby new producers may acquire bases reflecting an equitable percentage of their monthly deliveries, was proposed by Pennmarva as the most appropriate means of insuring continuing even production.

The base and excess plan herein adopted would establish a base for each producer by dividing his total deliveries to pool plants in the preceding months of August through December by 153 (154 in the case of a producer on every-other-day delivery and who delivered on August 1) less the number of days, if any, for which such producer's production was not received by pool handlers, but under no circumstances by less than 120. Producers would establish new bases each year. Such bases would be computed by the market administrator to be effective for the 12-month period of March 1 through February of the following year. By February 25 of each year the market administrator would notify each cooperative association with respect to the

established base of each producer member and each nonmember producer with respect to his established base.

Normally, new supply plants would be expected to enter the market only because additional milk supplies are required. Thus, there could be no need for such plants to enter the market initially in the months of flush production. Appropriately, dairy farmers associated with any supply plant entering the market should acquire bases in the identical manner as regular producers; i.e., based on their deliveries to pool plants during the base-forming months or in the alternative acquire a base in the manner hereinafter prescribed for new producers.

For distributing plants, the situation is somewhat different. A change in the respective volumes of Class I route sales between markets, either by virtue of additional business or by loss of sales, can result in an unintentional shift in regulation of a plant from one order to another. It would be unreasonable, in establishing bases, to discriminate against producers delivering to such a plant. Accordingly, the order provides that when a distributing plant first becomes regulated, the market administrator shall compute bases for the producers shipping to such plant on the identical basis used in the computation of bases generally, considering the deliveries of such producers to the plant in its nonpool status as though it had been a pool plant.

Special consideration was proposed to accommodate bona fide shifting of producers between this order and Order 2. In light of limited base transfer provisions, the opportunity for exploiting the plan to the detriment of other producers is substantially reduced. It is possible, therefore, to adopt in this order with respect to Order 2 a provision which has been applicable only among the three orders here being merged. Because there is a close interrelationship between the Order 4 and Order 2 markets and they do draw to a considerable extent upon a common supply area, producers should not be unduly inhibited from shifting between the markets.

Milk would most logically be needed in this market during the short production months. It is provided, therefore, that for any farm from which the entire production was moved as producer milk under Order 2 during all or part of the August–September period, and thereafter was moved as producer milk under this order through December, a base shall be computed on the basis of the deliveries under both orders. Requiring that the milk all be delivered to this order during the last 3 months of the base-forming period will assure that the milk has been associated with the market when supplies are most needed.

Under the transfer rules hereinafter discussed, there will be but limited opportunity for new producers to acquire bases by transfer. Appropriately, therefore, some provision should be made whereby new producers can acquire bases reflecting their performance in the market. Otherwise, new producers might be deterred from entering the market.

Pennmarva initially proposed that a new producer might acquire a base equal to 50 percent of his deliveries each month until such time as he had delivered four months during the next following base-forming period. In its posthearing brief, however, proponent suggested that the 50 percent apply only to the months of March through June, that 60 percent apply in the months of January, February, July, and December and that 70 percent apply in the remaining 4 months of August through November.

It is concluded that the latter percentages will provide reasonable treatment for new producers and that no further provision is needed for the purpose of providing interim bases. Bases computed on these percentages would not appear to be so high as to encourage new producers to come on the market at a time when their milk is not needed for Class I purposes. At the same time, they would not be so low as to discourage any producer who intends to become permanently associated with the market.

To insure equity between established producers and new producers, provision must be made whereby a producer with an established base can give up such base by notification to the market administrator and have a new base computed each month on the same percentage as is applicable to new producers. Once a producer relinquishes his established base, he must have his base computed each month on a percentage basis until the following March when new bases become applicable.

Under the terms of the order, "base milk" will be that milk received during the month which is not in excess of the producer's base multiplied by the number of days of production on which such milk was received at pool plants during the month. "Excess milk" is that producer milk received during the month which is in excess of the base milk received from such producer during such month.

Class I disposition of the market would first be assigned to base milk. If the aggregate Class I disposition is more than the base milk pooled in any month, such additional Class I milk would be allocated to excess milk and the excess price increased accordingly. Except under such circumstances, producers would receive only a Class II price for their excess milk and the remaining pool proceeds would be paid on base milk.

In some circumstances, due to audit adjustment or inventory classification, the normal procedure for calculation of base and excess prices might result in a base price higher than the Class I price. If this situation should occur, such additional value over the Class I price should be assigned to excess milk until the value of excess milk per hundredweight is brought up to the Class I price and any remaining additional values should be prorated between base and excess milk.

Location adjustments would be applicable only to the price paid producers for base milk. Since excess milk will essentially represent only milk classified in Class II to which no location adjustment is applicable, the producer price for excess milk should not be subject to a location differential.

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.

An established base should be transferable only in its entirety to another dairy farmer and only upon the death of the baseholder or the discontinuance of milk production because of entry into military service by such baseholder. Base transfers should be accomplished only through written application to the market administrator on forms prescribed by the market administrator and must be signed by the baseholder, his heirs or assignee and by the person acquiring such base. A separate base is applicable to each farm in the case of multiple farm operations and only one base can be established for each farm. Where a base has been established jointly and a copy of the partnership agreement setting forth the percentages of interest of each partner has been filed with the market administrator before the end of the base-forming period, then on termination of the partnership each partner will be entitled to his stated share. Provision also is made whereby, in bona fide partnership operations, two or more producers may combine bases which would then be applicable for a single farm.

Each of the orders here being merged provides a base plan and established bases would otherwise be operative under each through June 1970. Appropriately, therefore, the new base plan should not be effected until March 1, 1971. However, bases to be effective March 1, 1971, will be computed on the basis of deliveries during the August–December 1970 period.

Because current bases at best could have but a short time to run after the effective date of any merged order, it is provided that the bases held under the respective orders on the effective date of the merged order will be effective under the new order for the period through June 1970. Such bases may be transferred only under the transfer rules promulgated for the new base plan, however.

(e) *Marketing service provision.* Provision should be made in the merged order for the performance of marketing service for producers such as verification of the weights and tests of producer milk and dissemination of market information. The Act specifically authorizes marketing service provisions of the nature herein adopted.

The services should be provided by the market administrator and the cost should be borne by the producers receiving the services. When a cooperative association is actually performing for its member producers the services which the market administrator would otherwise provide under this provision, such member producers would not be subject to the marketing services deduction.

It is concluded that a maximum marketing service rate of 5 cents per hundredweight should be established for the combined order. The Washington, D.C., and Upper Chesapeake Bay orders presently provide for a 5-cent maximum assessment while no assessment is provided for under the Delaware Valley order. Under Orders 3 and 16, nonmember producers have had assurance through the checking of weights and tests of their milk by the market administrator that their payment for such milk correctly reflects the volume and test of milk delivered. In addition, through the marketing information disseminated by the respective market administrators they have had essential information on marketing conditions (including current supplies, demand, production cost information, prices, prospective returns and related data) to more effectively plan their production programs. These services should be made equally available to nonmember producers on the combined market.

The market administrator of Order 4 has no regular check testing program on nonmember milk and has not participated in any program of checking bulk farm tank calibrations. Also, it does not appear that the States of New Jersey and Pennsylvania have direct responsibility in the matter of farm bulk tank calibrations and their activities in the matter of checking butterfat tests have been nominal. The respective States have neither the personnel nor the funds to carry out an adequate check testing and weight verification program.

Now that the market has converted to bulk tank handling the samples for butterfat testing must be taken, and the checking of the weights of producer milk must be done at the farm rather than at the plant as was formerly the case when milk was shipped in cans. The marketing services program here adopted for the combined market, therefore, will promote orderly marketing by assuring individual producers that they have obtained accurate weights and tests of their milk.

The 5-cent maximum rate of deduction appears reasonable in view of the number of producers involved and the rates which have been applicable under the Washington, D.C., and Upper Chesapeake Bay orders and should provide the necessary funds to support an adequate marketing service program. Should experience indicate that such service can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of calling a hearing to consider the matter.

The order proponents supported a marketing service program in conjunction with a "cooperative payment" program and held that if both programs could not be adopted, the marketing service program should be dropped in favor of cooperative payments. While there could be some overlapping of services under the two programs, particularly in the dissemination of market information, the two programs would not otherwise serve similar purposes. In any case, the request for cooperative payment provisions is hereinafter denied and there is an essential need for the marketing service program.

(f) *Cooperative payment provisions.* Payments to qualified cooperative associations or federations from pool proceeds, in compensation for marketwide services of benefit to all producers, should not be provided for in the order on the basis of this record.

Pennmarva proposed that the merged order provide "cooperative payment" provisions essentially similar to those contained in the New York-New Jersey order (Order 2). Under the proposal, a qualified cooperative (any cooperative representing at least 10 percent of all producers on the market and determined by the market administrator to be performing specified marketwide services benefiting all producers) would receive payment at the rate of 4 cents per hundredweight of member producer milk. Such monies would be derived from pool proceeds prior to the computation of the blended price.

In certain circumstances, cooperatives not otherwise qualifying for such payments could affiliate with a qualified cooperative to the end that the latter could receive payment on both its producer milk and the affiliate's member producer milk. Cooperatives performing marketwide services, but not qualifying because of size, could federate to qualify for the payments.

Proponent anticipated that under its proposal each of its three member cooperatives would qualify individually for payments. Except through possible federation on the part of other cooperatives, no other payment recipients were in prospect at the time of the hearing.

The spokesmen for the three member cooperatives of Pennmarva initially held that essentially all the activities (with minor exceptions) of these cooperatives, and hence expenditures, individually are marketwide in nature and represent qualifying activities under their proposal. Later this position was modified. The annual monetary disbursements of each were reviewed and divided between (1) expenditures primarily in the interest of members only, and (2) expenditures in the interest of producers generally (marketwide services). While the modified position resulted in a substantial reduction in the claimed expenditure for marketwide services, such claimed expenditures exceeded for each cooperative the amount of reimbursement payable under the proposal at the 4 cents per hundredweight rate on member milk.

The specific problem, from which proponent seeks relief through cooperative payments, is an alleged disadvantage to its member cooperatives created by the presence of cooperative payments under Order 2 (New York-New Jersey). Proponent states that the local cooperatives compete for membership among producers in this market with New York-based cooperative recipients of such payments which, because of the payments, can and do have lower membership dues than the local cooperatives.

Proponent's spokesman testified further that because of this his own cooperative (Inter-State) had lost perhaps as many as 20 members (or potential members) to such New York-based cooperatives in the past few years. He further testified that his cooperative's membership percentage among producers in this market had declined while that of New York-based cooperatives had increased.

The fact that certain cooperatives, whose primary membership is in the New York-New Jersey market, have increased their membership in this merged market in recent years would not be adequate basis in itself for adopting cooperative payments under this order. Competition among cooperatives for membership is commonplace. In any such organization some members inevitably become dissatisfied and resign membership for one reason or another. Some may then join a competing organization. It would be surprising if proponent's member cooperatives do not hold as producer members some dairy farmers who previously were members of the same cooperatives of which it complains. It is most likely, however, that any increase in membership of the New York-New Jersey cooperatives in this market is largely the result of the additional plants which became regulated under Order 4 following the change from individual-handler to marketwide pooling effective June 1, 1967.

Further, the relatively small number of nonmember producers does not attest to any weakness in cooperative organization in this market. In the period between 1962 and 1968, the total number of producers decreased by 620, while the number of cooperative member producers increased by 565. In the Washington, D.C., area almost 93 percent of all producers are members of cooperatives and this has been the situation throughout the 7-year period. In each of the other two segments of the market, cooperative membership currently represents 80 percent of all producers, whereas in 1962 cooperative membership in the Delaware Valley market was only 60 percent and in the Upper Chesapeake Bay market was approximately 75 percent. If payment were provided for market services of a marketwide nature, such services would be financially supported primarily by, and would accrue mainly to, the producer members of proponent's member cooperatives.

Proponent's request for cooperative payments thus appears unrelated to any circumstances for which such payments conceivably might be warranted. The market activities for which reimbursement is requested, as well as the functions of supply balancing and handling of the market's reserve supply, are currently activities which the member cooperatives have elected to pursue in the interest of their producer members. In performing such activities, each of such cooperatives has acted as any alert, intelligent, organized participant of the market would be expected to do. That incidental benefits may accrue to the relatively few nonmembers remaining in this market from activities engaged in by such cooperatives in the direct interest of their members

cannot be construed, under the conditions in this market, as reason for requiring by law that all producers must share the cost of such activities.

The important positions which the three Pennmarva cooperatives have acquired in their respective segments of the market is the direct result of the enterprise and initiative they have individually shown in advancing the interests of their member producers. When cooperatives can achieve and retain, as voluntary organizations, a dominant market position, as these cooperatives have, without outside help in the collection of income for the normal range of cooperative services, it would not be sound to provide assistance in the form of a subsidy, or hidden dues, by regulation. In such circumstances, assistance of this kind could hardly strengthen such cooperatives in the long run, and actually might weaken them through their increased dependence on the regulation and by the supervision that follows from providing such funds as a public function.

Even proponent indicates some doubt of its position. It pursues its request, but it also points out that removal of the cooperative payment provisions from Order 2 would be a preferable solution to the problem presented. This is not, of course, a proper place for further discussion of the terms of the Order 2 payment provisions or of their possible modification. However, if as proponent holds, Order 2 cooperatives, by virtue of the funds they receive through cooperative payments, operate at an advantage in this market in competing with local cooperatives for membership, a more appropriate action for proponent would be to consider whether there are appropriate adjustments that might be made in the cooperative service provisions of Order 2, particularly as they relate to requirements on the membership of Order 2 recipient cooperatives serving this (merged) market as a basis for payment eligibility. This, of course, could only be accomplished through hearing procedure on Order 2.

It is concluded from the foregoing that cooperative payments are not warranted under the merged order either to solve the competitive problem relating to cooperative membership, or on any need to give financial assistance to the cooperatives in carrying on customary services which may have incidental benefit to nonmember producers.

(g) *Payments to individual producers and to cooperative associations.* The order should provide for partial payment to producers on or before the last day of the month and for final payment on or before the 20th day after the end of the month. The partial payment should be for milk received during the first 15 days of the month and should be at not less than the Class II price for the preceding month. Final payment to each producer should reflect the handler's total obligation for milk received from such producer in the preceding month less the amount of partial payment and proper authorized deductions, adjusted to reflect any butterfat variation from 3.5 percent, location adjustment, and the direct-delivery differential. When payment is being made to a cooperative association, such payments should be paid on the second day prior to the date for payment to individual producers.

Both the Washington, D.C., and Upper Chesapeake Bay orders provide for a single payment to producers on or before the 15th day after the end of the month. The Delaware Valley order provides for a partial payment and final payment at the same time and in substantially the same manner here provided.

Almost 60 percent of the producers under the several orders have had their milk priced under the Delaware Valley order. They are accustomed to receiving payment on the same dates here prescribed and the record presents no compelling evidence for a different plan.

While this payment schedule will be a change for producers whose milk is priced under the other two orders, the members of the proponent Federation generally supported such change. Although final payment can be as much as 5 days later (the 20th of the following month rather than the 15th), the impact of this will be offset by the earlier partial payment to be made on or before the end of the month (15 days earlier than producers are now paid).

Under the present structure of the market, producers require substantial operating capital. They must make substantial cash investments and have the ready cash to meet their obligations. Regular partial payment for milk delivered during the first part of the month should ease problems attendant to the maintenance of sufficient operating capital in order to adjust effectively to changing operating conditions in the market.

Use of the Class II milk price for the previous month in making the partial payment will minimize the possibility of any overpayments on the part of the handler.

Payment to a cooperative association, either in its capacity as the marketing agent of the producer or in its capacity as a handler, 2 days earlier than payment to individual producers is necessary in order that the cooperative will have the information and moneys needed to pay its members on the same dates that other producers are paid. In this connection, the order provides that, in making final payments to producers or to a cooperative association as the agency of a producer, each handler shall furnish a statement identifying the producer, the pounds of milk delivered and butterfat test thereof, the minimum price required to be paid and the nature and amounts of any deductions. Such information is necessary in order that the producer may verify that the payment is proper, and in the case of payment to a cooperative association, is alditionally needed for purpose of preparing producer payrolls.

To insure the solvency of the producer-settlement fund, it is provided that payments to the fund will be made on or before the 15th day after the end of the month, and payments out of the fund will be made on the 17th day after the end of the month. This sequence of payments will insure that the market administrator has the necessary funds to pay handlers who draw from the fund and that the handlers in turn have moneys to pay cooperative associations on the 18th day after the end of the month and producers 2 days later. The other dates prescribed in the order on which handlers and the market administrator must perform specific functions are geared to insure that all necessary prepayment activities will be completed on a schedule which insures payment on the dates here prescribed.

(h) *Miscellaneous administrative and conforming changes.* To accomplish the merger of the three orders most equitably, the assets in the administrative and marketing service funds which have accrued under the separate orders should be combined. A similar procedure should be carried out with respect to the producer-settlement fund reserves. Any liabilities of such funds under the individual orders should be paid from the new funds so created. Similarly, obligations which are due and owing to the funds under the separate orders should remain and be paid to the combined funds under the merged order. This procedure will assure and maintain the continuity of the regulatory program in these markets.

The Middle Atlantic order should provide for a maximum rate of 4 cents per hundredweight of milk which handlers shall pay as their pro rata share of the expense of administration of the order. This maximum rate appears reasonable in view of the present maximum rates of 4 cents under the Delaware Valley and Washington, D.C., orders and 5 cents under the Upper Chesapeake Bay order and the plan to transfer the present reserves in the separate administrative funds to the market administrator of the merged order for similar use thereunder. The order provides that if at any time it appears that a lesser rate of assessment would provide the necessary administrative funds the Secretary may set the actual rate at a lower rate without the necessity of amending the order.

As a proper pro rata assessment on handlers, payment under the merged order should apply to all receipts within the month of milk from producers, including milk of such handler's own production, any other source milk allocated to Class I (except milk so assessed under another Federal order), milk received from a cooperative association in its capacity as a handler on farm bulk tank milk, and milk transferred in bulk to a pool plant from a plant owned and operated by a cooperative association. A cooperative association should pay the administrative assessment only on its receipts for which the assessment is applicable, and for which such assessment is not to be paid by other handlers.

The Act provides that the administrative cost of the order shall be borne by handlers. In this connection, it seems apparent that Congress must have contemplated, in any circumstance in which a proprietary handler was purchasing milk from a cooperative association, that the

assessment would be passed on to the proprietary handler. If this were not the case, all proprietary handlers could simply avoid the burden of administrative cost by purchasing milk only from cooperative associations.

When a cooperative association is operating plant facilities, it is a handler under the order and in this role is hardly distinguishable from a proprietary handler in the same role. Nevertheless, it is readily apparent in the competitive situation existing in this market, that if the administrative assessment on bulk transfers from such a cooperative plant to a proprietary handler was levied on the cooperative, this value would become a bargaining tool whereby all such cooperatives could simply outbid bargaining cooperatives for outlets with proprietary handlers.

Under such circumstances, it is likely that bargaining cooperatives would be forced to absorb the administrative cost (even though levied directly on the handler), risking the penalty for violating the order simply as the only practical means of retaining their accounts.

When a cooperative association operates a processing plant or acts in the capacity of a handler diverting milk to nonpool plants or in the limited capacity as responsible handler with respect to shrinkage on farm bulk tank milk which it causes to be picked up at the farm, it, of course, must be held responsible for the assessment payable on such milk.

This order specifies minimum performance standards which must be met to obtain regulated status. With certain specified exceptions, operators of plants not meeting such standards would, under the provisions of the order, be required to either make specific payments into the producer-settlement fund on route disposition in the marketing area in excess of offsetting purchases of Federal order Class I milk, or otherwise pay into such fund and/or to dairy farmers an amount not less than the full classified use value of receipts.

The market administrator, in administration of the order, as it applies to the nonpool distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. Partial regulation (as prescribed) of such distributor does not, however, provide the same benefits to such handlers as accrue to the fully regulated handler; i.e., the privilege of participation in the market pool and assurance of uniform price payments to his dairy farmers. If the nonpool route distributor elects to make a payment on his in-area sales at the difference between the Class I price and the uniform price for the market, the expenses incurred by the market administrator in administration of the order with respect to such handler are nominal and payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative costs.

In the situation where the partially regulated distributor elects to pay the full use value of his milk to his dairy farmers, the administrative expense is substantially the same as that in the case of administering the order with respect to a fully regulated handler. However, if the assessment rate were similarly applied, it is likely that the assessment might make possible a financial obligation under the order in excess of the handler's total obligation under the alternative of electing to make a payment to the producer-settlement fund. In order to give more meaningful effect to the choice of an alternative, the pro rata share of the administrative expense should be the assessment rate but only with respect to the route disposition in the marketing area which is in excess of Class I receipts from federally regulated plants, regardless of the option which may be chosen by the unregulated distributor.

A proposal by the Mid-Atlantic Federal Order Committee would require that producer-handlers pay the administrative assessment on own farm production.

The order is intended to exempt producer-handlers, except for the filing of reports as required by the market administrator, to permit ascertainment of continuing status as producer-handlers. Except for intermittent verification of reports, no substantial time or money would be involved in administration of the order as it applies to such persons, and it is therefore neither necessary nor appropriate that they be required to contribute to the administrative assessment fund.

The order has been drafted to incorporate certain conforming and qualifying changes, including updating of language for clarity and consistency. These changes have been necessary to effectuate the findings and conclusions made herewith. Except for the terms of the order previously discussed, these changes of conforming nature will not affect the scope of the order or its application to any handler subject therewith.

Rulings on Proposed Findings and Conclusions

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

A number of motions were made at the hearing relating to the exclusion or inclusion of certain proposals and certain evidence. Offers of proof were made with respect to certain evidence so excluded. In its brief, the Mid-Atlantic Federal Order Committee requested that consideration be given to a reversal of certain of these rulings.

The presiding officer's rulings have been reviewed in light of the arguments presented. These rulings, for the reasons stated by the presiding officer on the record, are hereby affirmed.

General Findings

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

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

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

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

Recommended Marketing Agreement and Order Amending the Orders

The following order amending and consolidating the orders as amended regulating the handling of milk in the Washington, D.C., Delaware Valley, and Upper Chesapeake Bay marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Subpart—Order Regulating Handling

Definitions

Sec.

AUTHORITY: The provisions of this Part 1004 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Order Relative to Handling

DEFINITIONS

§ 1004.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1004.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States to whom authority may be delegated to act in his stead.

§ 1004.3 Department of Agriculture.

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

§ 1004.4 Person.

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

§ 1004.5 Cooperative association.

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

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

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

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

§ 1004.6 Middle Atlantic marketing area.

"Middle Atlantic marketing area" (hereinafter called the "marketing area") means all territory within the boundaries of the following places, including piers, docks and wharves and territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) The District of Columbia

(b) The State of Delaware

(c) In the State of Maryland

(1) The counties of:

Anne Arundel.	Howard.
Baltimore.	Kent.
Calvert.	Montgomery.
Caroline.	Prince Georges.
Carroll.	Queen Annes.
Cecil.	Somerset.
Charles.	St. Marys.
Dorchester.	Talbot.
Frederick.	Wicomico.
Harford.	Worcester.

(2) The city of Baltimore

(3) Fort Ritchie.

(d) In the State of New Jersey

(1) The counties of:

Atlantic.	Cumberland.
Burlington.	Gloucester.
Camden.	Mercer.
Cape May.	Salem.

(2) In Ocean County:

(a) The townships of:

Eagleswood.	Ocean.
Lacey.	Stafford.
Long Beach.	Union.
Little Egg Harbor.	

(b) The boroughs of:

Barnegat Light.	Ship Bottom.
Beach Haven.	Tuckerton.
Harvey Cedars.	

(e) In the State of Pennsylvania:

(1) The counties of:

Delaware.	Philadelphia.

(2) In Montgomery County:

(a) The townships of:

Springfield.	Upper Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).
Cheltenham.	
Abington.	
Lower Merion.	
Lower Moreland (south of the Trenton cutoff of the Pennsylvania Railroad only).	

(b) The boroughs of:

Bryn Athyn.	Rockledge.
Narberth.	Jenkintown.

(3) In Bucks County:

(a) The townships of:

Bensalem.	Lower Makefield.
Bristol.	Lower Southampton.
Falls.	Middletown.

(b) The boroughs of:

Bristol.	Morrisville.
Hulmeville.	Penndel.
Langhorne.	Tullytown.
Langhorne Manor.	Yardley.

(f) In the State of Virginia

(1) The counties of:

Arlington.	Loudoun.
Fairfax.	Prince William.

(2) The cities of:

Alexandria.	Fairfax.
Falls Church.	

§ 1004.7 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, processing or packaging of milk or milk products (including filled milk). However, a separate facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck or only as a distribution depot for fluid milk products in transit for route distribution shall not be included under this definition.

§ 1004.8 Pool plant.

"Pool plant" means a plant (except an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1004.10(e)) specified in paragraphs (a) through (e) of this section.

(a) A plant from which during the month a volume not less than 50 percent of its receipts described in paragraphs (1) or (2) of this paragraph is disposed of as Class I milk (except filled milk) and a volume not less than 10 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

(1) Milk received at such plant directly from dairy farmers (including milk diverted as producer milk pursuant to § 1004.15, by either the plant operator or by a cooperative association, but excluding the milk of dairy farmers for

other markets) and from a cooperative in its capacity as a handler pursuant to § 1004.10(c); or

(2) In the case of a plant with no receipts described in subparagraph (1) of this paragraph, receipts of fluid milk products (other than filled milk) from other plants.

(b) Any plant not meeting the conditions of paragraph (a) of this section from which during the month a quantity of fluid milk products (other than filled milk) not less than the applicable percentage (as specified in subparagraph (1) of this paragraph) of such plant's receipts of milk from dairy farmers (including milk diverted as producer milk pursuant to § 1004.15 by either the plant operator or by a cooperative association) and from a cooperative association in its capacity as a handler pursuant to § 1004.10(c) is moved to a plant(s) meeting the percentage disposition requirements specified in paragraph (a) of this section with respect to its total receipts of fluid milk products (other than filled milk) from dairy farmers, cooperative associations as handlers pursuant to § 1004.10(c) and from other plants. However, a plant shall not qualify pursuant to this paragraph in any month in which a greater proportion of its qualifying shipments are made to a plant(s) regulated under another Federal order than to plants regulated under this order.

(1) The applicable percentage for the purpose of this paragraph shall be:

(i) 50 percent for any month of September through February; and

(ii) 40 percent for any month of March through August.

(c) A reserve processing plant which was a pool plant under the Delaware Valley, Upper Chesapeake Bay or Washington, D.C., orders in each of the 12 months preceding the effective date of this order and which does not meet the conditions for pool status pursuant to paragraph (a) or (b) of this section shall continue to hold such status in each consecutive succeeding month in which:

(1) It is owned and operated by a handler who also operates a plant qualified pursuant to paragraph (a) of this section;

(2) The handler files a written request with the market administrator on or before the effective date of this order requesting pool status for such plant under this paragraph;

(3) The plant does not qualify as a pool plant pursuant to the provisions of another Federal order;

(4) The plant, in combination with a distributing plant of such handler, meets the performance standards of paragraph (a) of this section;

(5) No plant of such handler is a means for qualification of any other plant for pooling pursuant to paragraph (b) of this section; and

(6) The handler notifies the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(d) A reserve processing plant operated by a cooperative association at least 70 percent of the members of which are producers whose milk is received throughout the month at plants qualified pursuant to paragraphs (a), (b), or (e) of this section (including the milk of such producers which is delivered to such plants by the cooperative in its capacity as a handler pursuant to § 1004.10(c): *Provided*, That such cooperative shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

(e) Subject to the conditions of subparagraph (1) of this paragraph, a plant that was a plant qualified pursuant to paragraph (b) of this section during each of the immediately preceding months of September through February shall remain so qualified during the following months of March through August, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month of such period during which it does not otherwise qualify pursuant to said paragraph (b): *Provided*, That pool plant status under the Delaware Valley, Upper Chesapeake Bay, or Washington, D.C., orders during each of the months of September 1969 through February 1970 shall be considered qualification for such automatic pooling status for purposes of this paragraph for the period through August 1970;

(1) The automatic pooling status of any plant pursuant to this paragraph shall be canceled beginning on the first day of any month during the March through August period in which another supply plant is qualified for pooling through shipments to the same plants through which such automatic pooling status was acquired.

§ 1004.9 Nonpool plant.

"Nonpool plant" means a plant other than a pool plant. The following categories of nonpool plants are further defined:

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

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

(c) "Partially regulated distributing plant" means a plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant to § 1004.10(e), from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a plant which is not a pool plant, a producer-handler plant, an other order plant, or the plant of a handler pursuant to § 1004.10(e), from which fluid milk products are shipped during the month to a plant qualified under § 1004.8.

§ 1004.10 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of:

(1) A pool plant;

(2) A partially regulated distributing plant;

(3) An unregulated supply plant; or

(4) An other order plant.

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of § 1004.15 to a nonpool plant for the account of such cooperative association.

(c) Any cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant of another person in a tank truck owned and operated by or under contract to such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator in writing prior to the first day of the month that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests based on samples taken at the farm. Milk for which the cooperative association is qualified pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered.

(d) A producer-handler.

(e) A governmental agency in its capacity as the operator of a plant with route disposition in the marketing area.

(f) Any other person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant.

§ 1004.11 Pool handler.

"Pool handler" means any person in his capacity as the operator of a pool plant or a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c).

§ 1004.12 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a plant with route disposition in the marketing area, and whose sole source of supply of fluid milk products is his own farm production and transfers of such products from pool plants: *Provided*, That,

(a) the quantity of fluid milk products received from pool plants during the month shall not exceed 10,000 pounds; and

(b) such person furnishes proof satisfactory to the market administrator that the maintenance and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding transfers from pool plants), and the

operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1004.13 Dairy farmer.

"Dairy farmer" means any person who produces milk which is delivered in bulk to a plant.

§ 1004.14 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer with respect to milk reported pursuant to § 1004.8 (c)(6) or the proviso of paragraph (d) of said § 1004.8.

§ 1004.15 Producer.

"Producer" means any dairy farmer (except a producer-handler as defined in any order [including this part] issued pursuant to the Act, a "dairy farmer for other markets", a Government agency which is a handler pursuant to § 1004.10 (e), or any other person with respect to milk produced by him which is subject to the price and payment provisions of an other order issued pursuant to the Act) who produces milk which is received at a pool plant (including milk received at a pool plant pursuant to § 1004.8 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e)) or by a cooperative association as a handler pursuant to § 1004.10(c) or which is diverted during any month of March through August or in accordance with the provisions of paragraphs (a), (b), or (c) of this section during any month of September through February, to an other order plant under an agreed upon Class II disposition by both the diverting handler and the operator of the other order plant and for which an equivalent Class II use is available in the receiving plant to permit such assignment under the terms of the other order, or to any other nonpool plant (except a producer-handler plant). If a handler diverting milk pursuant to paragraph (a) of this section diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant. If a handler diverting milk pursuant to paragraphs (b) or (c) of this section diverts in excess of the limits prescribed, all diversions by such handler during the month shall be pursuant to paragraph (a) of this section.

(a) Not more than 10 days production during the month unless:

(1) In the case of members of a cooperative association, all of the diversions of milk during the month are by the cooperative association and are in the manner and within the limits prescribed in paragraph (b) of this section; or

(2) In the case of any other pool handler diverting milk of nonmember producers, all of such diversions fall within the limits prescribed in paragraph (c) of this section.

(b) The diversion is the milk of a member of a cooperative association diverted for the account of such association and the amount of member milk so diverted does not exceed 15 percent of the volume of milk of all producer members of such cooperative association received at pool plants during such month.

(c) The diversion is the milk of a producer, who is not a member of a cooperative association, which is diverted by a handler in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 15 percent of the total nonmember producer milk delivered to such handler during the month.

(d) Milk which is diverted in accordance with the provisions of this section shall be deemed to have been received by the handler for whose account it is diverted at a pool plant at the location of the plant from which it is diverted, except that, for the purpose of applying location adjustments pursuant to §§ 1004.51 and 1004.82 and the direct-delivery differential pursuant to § 1004.83, milk which is diverted in the manner described in subparagraphs (1) through (3) of this paragraph shall be treated as though received at the location of the plant to which diverted.

(1) Diverted from a pool plant at which no location adjustment credit is applicable to a plant at which a location adjustment credit is applicable.

(2) Diverted from a pool plant at which a location adjustment credit is applicable to a plant at which a greater location adjustment credit is applicable.

(3) Diverted from a pool plant in the direct-delivery zone to a plant outside such direct-delivery zone.

§ 1004.16 Milk and milk products.

(a) "Fluid milk product" means milk, skim milk (including concentrated and reconstituted milk or skim milk), buttermilk, cultured buttermilk, flavored milk, milk drinks (plain or flavored), filled milk, and (except ice cream, ice cream mixes, ice milk mixes, milkshake mixes, eggnog, yogurt, condensed or evaporated milk, and any product which contains six percent or more nonmilk fat [or oil]) any mixture in fluid form of cream and milk or skim milk containing less than 10 percent butterfat: *Provided,* That when the product is modified by the addition of nonfat milk solids, the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of unmodified product of the same nature and butterfat content.

(b) "Producer milk" means any skim milk or butterfat contained in milk:

(1) Received at a pool plant directly from producers (including milk received at a pool plant pursuant to § 1004.8 (c) or (d) as milk diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e);

(2) Received from producers by a cooperative association in its capacity as a handler pursuant to § 1004.10(c); or

(3) Diverted to a nonpool plant in accordance with the provisions of § 1004.15.

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

(1) Receipts in the form of fluid milk products from any source other than producers, pool plants, or from a cooperative association in its capacity as a handler pursuant to § 1004.10(c);

(2) Receipts (including any Class II product produced in the handler's plant during a prior month) in a form other than as a fluid milk product which are reprocessed, converted, or combined with another product during the month; and

(3) Receipts in a form other than a fluid milk product for which the handler fails to establish a disposition.

(d) "Base milk" means milk received from a producer by a pool handler which is not in excess of such producer's daily base computed pursuant to § 1004.63 (§ 1004.66 for the period through June 1970), multiplied by the number of days in such month on which such producer's milk was so received: *Provided,* That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for purposes of this paragraph.

(e) "Excess milk" means milk received from a producer by a pool handler which is in excess of base milk received from such producer during the month.

(f) "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 less than 6 percent nonmilk fat (or oil).

(g) "Certified milk" is milk which is produced, packaged, and sold under the label of certified milk in accordance with the rules and regulations promulgated by the American Association of Medical Milk Commissions, Inc.

§ 1004.17 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to a retail or wholesale outlet (including any delivery through a distribution depot, by a vendor, from a plant store or through a vending machine) except any delivery to a plant.

MARKET ADMINISTRATOR

§ 1004.20 Designation.

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

§ 1004.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1004.22 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds received pursuant to § 1004.89:

(1) The cost of his bond and the bonds of his employees,

(2) His own compensation, and

(3) All other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1004.30 and 1004.31, or payments pursuant to §§ 1004.80 through 1004.89;

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

(h) Verify all reports and payments of each handler, by audit, if necessary, of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(i) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation of this part as do not reveal confidential information;

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The fifth day of each month:

(i) The Class I price for the current month computed pursuant to § 1004.50 (a); and

(ii) The Class II price computed pursuant to § 1004.50(b) and the producer butterfat differential computed pursuant to § 1004.81 both for the preceding month.

(2) The 13th day of each month, the uniform price(s) computed pursuant to §§ 1004.71 and 1004.72 for the preceding month.

(k) On or before the 15th day after the end of each month, report to each cooperative association which so requests, the class utilization of milk purchased from such association or delivered to the pool plant(s) of each handler by producers who are members of such cooperative association. For the purpose of this report, the milk so purchased or received shall be allocated to each class in the same ratio as all producer milk received by such handler during such month;

(l) On or before February 25 of each year, notify each producer, the handler receiving his milk and the cooperative association of which he is a member of the daily base established by such producer;

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1004.46(a)(10) and the corresponding step of § 1004.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1004.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

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

REPORTS, RECORDS AND FACILITIES

§ 1004.30 Reports of receipts and utilization.

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

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

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

(ii) Receipts of fluid milk products from other pool plants and milk received from a cooperative association for which it is a handler pursuant to § 1004.10(c); and

(iii) Receipts of other source milk;

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

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately in-area route disposition, except filled milk, and filled milk route disposition in the area;

(b) Each handler who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(c) Each producer-handler and each handler pursuant to § 1004.10(e) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and

(d) On or before the eighth day after the end of each month, each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1004.10 (b) or (c) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants; and

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler.

§ 1004.31 Other reports.

(a) Each pool handler shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(1) On or before the 25th day after the end of the month for each pool plant, his producer payroll for such month which shall show for each producer:

(i) His name and address;

(ii) The total pounds of milk received from such producer;

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

(iv) The net amount of the handler's payment, together with the price paid and the amount and nature of any deduction;

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

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to a pool handler, the handler shall file with the market administrator a report stating the producer's name and post office address, the health department permit number, if applicable, the date on which the changes took place, and the farm and plant location involved.

(c) In making payments to producers pursuant to § 1004.80(a)(2), or to a cooperative association pursuant to § 1004.80(b), each pool handler shall

furnish such producer or cooperative association with respect to each of its producer members from whom the handler received milk during the month, a written statement showing:

(1) The month and the identity of the handler and the producer;

(2) The total pounds and average butterfat test of milk delivered by the producer;

(3) The minimum rate at which payment to such producer is required under § 1004.80(a)(2);

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

(5) The nature and amount of any deductions made in payment due such producer; and

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

(d) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1004.62(b) shall report the same information as required in paragraph (a) of this section with respect to dairy farmers from whom he receives milk.

(e) On or before the 20th day after the end of the month, each handler pursuant to § 1004.10(f) shall report to the market administrator, in the detail and on forms prescribed by the market administrator, all transactions wherein milk was bought or dealt in, giving the following information:

(1) The name and address of any cooperative association or producer for whom the handler by either purchase or direction caused milk of producers to be moved to a plant;

(2) The total pounds of milk involved in the transaction, and the average butterfat content of such milk; and

(3) Such other information with respect to such transaction as the market administrator may prescribe.

§ 1004.32 Records and facilities.

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

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

(b) The weights and tests for butterfat and other content of all milk and milk products (including filled milk) handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items in inventory at the beginning and end of each month required to be reported pursuant to § 1004.30(a)(2); and

(d) Payments to producers and cooperative associations, including any deductions and the disbursement of money so deducted.

§ 1004.33 Retention of records.

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

CLASSIFICATION

§ 1004.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported by each handler pursuant to § 1004.30 shall be classified each month by the market administrator pursuant to the provisions of § 1004.41 through § 1004.46.

§ 1004.41 Classes of utilization.

Subject to the conditions set forth in § 1004.42 through § 1004.46, 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 as a fluid milk product except as provided in paragraph (b)(2), (3), or (7) of this section;

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

(3) Not specifically accounted for as Class II milk.

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

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of for livestock feed;

(3) Contained in fluid milk products which are dumped, if the handler gives the market administrator such advance notice of intent to dump as the market administrator may prescribe;

(4) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.42(b)(1), but not to exceed the following:

(i) Two percent of producer milk received at a pool plant; plus

(ii) One and one-half percent of milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1004.10(c); plus

(iii) One and one-half percent of milk received at a pool plant in bulk tank lots from other pool plants; 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 utilization was requested by the handler (and by the operator of such other order plant if such receipt is fully subject to the classification and pricing provisions of such other order); plus

(v) One and one-half percent of receipts from dairy farmers for other markets pursuant to § 1004.14 and receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk moved in bulk tank lots from a pool plant to other plants; and plus

(vii) One-half of 1 percent in receipts of producer milk by a cooperative association in its capacity as a handler pursuant to § 1004.10(c);

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1004.42(b)(2);

(7) Disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which fluid milk products were used only in the manufacture of food products other than milk products; and

(8) In skim milk represented by the nonfat milk solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1004.16(a).

§ 1004.42 Shrinkage.

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

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

(b) Shrinkage shall be prorated between: (1) Skim milk and butterfat in receipts described in § 1004.41(b)(5); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1004.41(b)(5).

§ 1004.43 Responsibility of handlers and the reclassification of milk.

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

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

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1004.10(c), 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, and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler pursuant to § 1004.10(c) shall be responsible for proving that such skim milk and butterfat should be classified other than as Class I.

§ 1004.44 Transfers.

Skim milk and butterfat in the form of any fluid milk product shall be classified:

(a) As Class I milk if diverted from a pool plant pursuant to § 1004.8 (a), (b), or (e) to a pool plant pursuant to § 1004.8 (c) or (d), or transferred from

a pool plant or by a cooperative association as a handler pursuant to § 1004.10(c) to a pool plant, unless Class II utilization is indicated by the transferee and transferor handlers (or by the handler if such transaction is between two pool plants of the same handler) in their reports pursuant to § 1004.30(a) for the month, subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1004.46(a)(10) and the corresponding step of § 1004.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1004.46(a)(5), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1004.46(a)(9) or (10), and the corresponding steps of § 1004.46(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

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

(c) As Class I milk if transferred or diverted from a pool plant or delivered by a cooperative association in the capacity as a handler pursuant to § 1004.10(c) to a handler pursuant to § 1004.10(e).

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant, or the plant of a handler pursuant to § 1004.10(e), unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1004.30 for the month within which such transaction occurred;

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

(3) The skim milk and butterfat so transferred 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 route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and thereafter pro rata to receipts from pool plants and other order plants not regulated by such order;

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

(iv) Any remaining receipts from pool plants or other order plants shall be assigned to Class II: *Provided,* That if on inspection of the books and records of the nonpool plant the market administrator finds that the remaining unassigned receipts at such plant exceed the available Class II utilization, the transfer shall be classified as Class I up to the amount of such excess.

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

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

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

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

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

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

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1004.41.

§ 1004.45 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 § 1004.30(a) by each handler and compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1004.10 (b) and (c) and was not received at a pool plant: *Provided,* That 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 products plus all the water originally associated with such solids.

§ 1004.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1004.45, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1004.10 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1004.10(c) at each pool plant for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1004.41(b)(5);

(2) Subtract from the total pounds of skim milk in Class I, the pounds of skim milk in receipts of certified milk in packaged form;

(3) 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, except that to be subtracted pursuant to subparagraph (5)(vi) of this paragraph as follows:

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

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

(4) Except for the first month this order is effective, with respect to plants which in the immediately preceding month were either unregulated plants or pool plants under Orders 3 or 16, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month;

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

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

(ii) Receipts of fluid milk products from dairy farmers for other markets pursuant to § 1004.14 and from unidentified sources;

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

(iv) Receipts of fluid milk products from a handler pursuant to § 1004.10(e);

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants;

(vi) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant and is not assigned under this step at a plant regulated under another market pool order;

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

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

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

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

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, receipts from pool plants of other handlers, from a cooperative association in its capacity as a handler pursuant to § 1004.10(c), and in receipts in bulk from other order plants; and

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

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

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

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products in bulk (and for the first month this order is effective, in packaged fluid milk products not subtracted pursuant to subparagraph (4) of this paragraph) on hand at the beginning of the month;

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

(9) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and from other order plant(s) if not classified or priced pursuant to the order regulating such plant, that were not subtracted pursuant to subparagraph (6) (i) or (ii) of this paragraph;

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

(10) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk in remaining receipts of fluid milk products in bulk from other order plants (except receipts from other order plants not classified and priced pursuant to the order regulating such plant), in excess in each case of similar movements to the same plant, pursuant to the following procedure:

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

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1004.22(m); or

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

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

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

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1004.10(c) according to the classification assigned pursuant to § 1004.44(a); and

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

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

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

MINIMUM PRICES

§ 1004.50 Class prices.

Subject to the provisions of § 1004.51 the minimum class prices per hundredweight of milk containing 3.5 percent butterfat for the month shall be as follows:

(a) *Class I milk.* The price per hundredweight of Class I milk shall be $7.11 plus any amount by which the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the preceding month on a 3.5 percent butterfat basis, exceeds $4.33.

(b) *Class II milk.* The price per hundredweight of Class II milk shall be determined for each month as follows:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat

differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

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

(iii) From the sum of the results arrived at under subdivision (i) and (ii) of this subparagraph subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	*Amount*
January	+$0.05
February	+.04
March	−.03
April	−.07
May	−.10
June	−.09
July	+.05
August	+.12
September	+.08
October	+.08
November	+.08
December	+.08

§ 1004.51 Location differential to handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1004.10(c) at a pool plant located 55 miles or more by shortest highway distance from the city hall in Philadelphia, Pa., and also 75 miles or more by the shortest highway distance from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all such distance to be determined by the market administrator), and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the Class I price shall be reduced at the rate of 1.5 cents per 10-mile distance or fraction thereof that such plant location is from the nearest of such basing points.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that my which such Class I disposition exceeds 95 percent of the sum of receipts at such plant from producers, cooperative associations pursuant to § 1004.10(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and from dairy farmers for other markets pursuant to § 1004.14. 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: *Provided*, That for the purposes of this paragraph, transfers from a pool plant to a second pool plant which are in turn transferred to a third pool plant shall be treated as though the transfer was direct from the originating plant to the plant of final receipt.

§ 1004.52 Equivalent prices or indexes.

If for any reason a price or index specified by this part for use in computing class prices or other purposes is not reported or published in the manner described in this part, the market administrator shall use a price or index determined by the Secretary to be equivalent or comparable with the factor which is specified.

APPLICATION OF PROVISIONS

§ 1004.60 Producer-handler.

Sections 1004.40 through 1004.46, 1004.50 through 1004.52, 1004.62 through 1004.65, 1004.70 through 1004.72 and 1004.80 through 1004.89 shall not apply to a producer-handler.

§ 1004.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall, except as specified in paragraphs (c) and (d) of this section, be exempt from the provisions of this part:

(a) Any plant qualified pursuant to § 1004.8(a) which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the Secretary determines that a greater volume of Class I milk, except filled milk, is disposed of from such plant as route disposition in the Middle Atlantic marketing area than is so disposed of in a marketing area regulated pursuant to such other order; or

(b) Any plant subject to the classification and pricing provisions of another order issued pursuant to the Act, notwithstanding its status under this order pursuant to § 1004.8 (a) or (b).

(c) Each handler operating a plant described in paragraph (a) or (b) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of reports pursuant to §§ 1004.30 and 1004.31) and allow verification of such reports by the market administrator.

(d) Each handler operating a plant specified in paragraph (a) of this section if such plant is subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in the marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

§ 1004.62 Obligations of a handler operating a partially-regulated distributing plant.

Each handler who operates a partially-regulated distributing plant shall pay to the market administrator for the producers-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 §§ 1104.30(b) and 1004.31(d) 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 § 1004.70 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, a cooperative association as a handler pursuant to § 1004.10 (b), 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 clasified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1004.70(e) and a credit in the amount specified in § 1004.85 (b)(2) 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 II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1004.30(b) and 1004.31(d) 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 § 1004.8(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 vertification 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 milk (approved by a duly constituted health authority for fluid disposition) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

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

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants, cooperative associations in their capacity as handlers pursuant to § 1004.10(b), 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 (but not less than the Class II price), substract its value at the weighted average price applicable at such location (not to be less than the Class II price), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (but not less than the Class II price), less the value of such skim milk at the Class II price.

§ 1004.63 Computation of base for each producer.

After February 1971, for each month of the year, the market administrator shall compute, subject to the rules set forth in § 1004.64, a base for each producer described in paragraphs (a) through (d) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 153 (by 154 in the case of a producer on every-other-day delivery schedule who delivered August 1) less the number of days, if any, during the applicable base-forming period of August through December for which it is shown that the day's production of milk of such producer was not received by a pool handler as described in the applicable paragraphs (a) through (d) of this section under which such producer's base is computed: *Provided*, That in no event shall the number of days used to compute a producer's base pursuant to this section be less than 120.

(a) For any producer, except as provided in paragraphs (b) through (e) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer during the preceding months of August through December;

(b) Except as provided in paragraph (c) of this section, for any producer whose milk was received at a plant which first became a pool plant after the beginning of the preceding August–December period, which plant was a pool plant for at least 120 days during such period, the quantity of milk receipts to be used in the computation of such producer's base shall be the total pounds of milk received from such dairy farmer at such plant during the entire August–December period.

(c) For any producer who on August 1 was an Order 2 (New York-New Jersey) producer and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer by pool handlers under both orders throughout the August–December period.

(d) For any producer whose milk was received during the preceding August through December period at a plant which became a pool plant pursuant to § 1004.8(a) during or after such August through December period, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during such August–December period by pool handlers as producer milk and at such plant as a nonpool plant.

(e) Any producer who made no qualifying milk deliveries during the base-forming period of August through December, or who relinquishes his established base pursuant to § 1004.65, shall have a base reflecting the percentage of his average daily deliveries of producer milk each month as set forth in the following table. A new base is earned on the basis of his milk deliveries during the subsequent August through December period.

Month	*Percentage of production as base*
January and February	60
March through June	50
July	60
August through November	70
December	60

§ 1004.64 Base rules.

After February 1971, the following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to paragraph (a) through (d) of § 1004.63 (except as provided in paragraph (e) of said section) shall be effective for the subsequent months of March through February, inclusive.

(b) A base computed pursuant to paragraphs (a) through (d) of § 1004.63 may be transferred only in its entirety to another dairy farmer and only upon the death of the baseholder or the discontinuance of milk production because of the entry into military service of such baseholder.

(c) Base transfers shall be accomplished only through written application to the market administrator on forms prescribed by the market administrator and shall be signed by the baseholder, his heirs or assigns, and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, except as provided in paragraph (e), the entire base only is transferrable and only upon receipt of such application signed by all joint holders or their heirs or assigns.

(d) If a producer operates more than one farm and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1004.10 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm.

(e) Only one base shall be allocated with respect to milk produced by one or more persons where a dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total interest of the partners in the base is filed with the market administrator before the end of the base-forming period, then upon termination of the partnership agreement each partner will be entitled to his stated share of the base to hold in his own right or to transfer in conformity with the provisions of paragraph (b) or (c) of this section (including transfer to a partnership of which he is a member). Such termination of partnership shall become effective as of the end of any month during which an application for such division of base signed by each member of such partnership is received by the market administrator.

(f) Two or more producers with bases may combine such bases upon the formation of a bona fide partnership operating from one farm. Such a combination shall be considered a joint base under paragraph (e) above.

§ 1004.65 Relinquishing a base.

After February 1971, a producer holding an established base can, upon notification to the market administrator, relinquish his established base and be paid pursuant to the provisions of § 1004.63(e) beginning with the first day of the month in which such notification is received by the market administrator and extending until March 1, next.

§ 1004.66 Base plan through June 1970.

(a) The established base which each producer held under Order 3, 4, or 16 at the end of the month immediately preceding the effective date of this order shall be such producer's base under this order from the effective date hereof through June 1970.

(b) For any dairy farmer who becomes a producer concurrently with the effective date of this order, because the nonpool plant to which his milk is regularly delivered acquires pool plant status, a base shall be computed by the market administrator as follows:

(1) Divide the quantity of milk receipts of such dairy farmer during the preceding months of July through December at such plant and by pool handlers as pool milk by 153 (by 154 in the case of a producer on every-other-day delivery schedule who delivered July 1) less the number of days, if any, during such August–December period for which it is shown that the day's production of milk of such dairy farmer was not received: *Provided,* That in no event shall the number of days used to compute a producer's base pursuant to this paragraph be less than 120.

(c) A base established pursuant to paragraphs (a) or (b) of this section shall be transferrable only under the rules of § 1004.64.

DETERMINTION OF UNIFORM PRICE

§ 1004.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant and of each cooperative association handler pursuant to § 1004.10 (b) and (c) with respect to milk which was not received at a pool plant shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantiy of milk received from a cooperative association as a handler pursuant to § 1004.10(c) and allocated pursuant to § 1004.46(a)(11) and the corresponding step of § 1004.46 (b) and the quantity of producer milk in each class, as computed pursuant to § 1004.46(c), by the applicable class prices (adjusted pursuant to § 1004.51);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1004.46(a)(12) and the corresponding step of § 1004.46(b) by the applicable class prices adjusted by the applicable differentials pursuant to §§ 1004.51 and 1004.81;

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.46(a)(7) and the corresponding step of § 1004.46(b) for the current month;

(2) Multiply the difference between the applicable Class I price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.46(a)(4) and the corresponding step of § 1004.46(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 at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1004.46(a)(5) and the corresponding step of § 1004.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1004.46 (a)(5) (v) and (vi) and the corresponding step of § 1004.46(b) the Class I price shall be adjusted to the location of the transferor plant but not less than the Class II price; and

(e) Add an amount equal to the value at the Class I price of skim milk and butterfat assigned to Class I pursuant to § 1004.46(a)(9) and the corresponding step of § 1004.46(b) (excluding receipts from partially-regulated distributing plants for which disposition a specific allocation is made to Federal order receipts from this or any other order) adjusted for the location of the nearest plant from which such types of receipts were received and by the butterfat differential pursuant to § 1004.81 to reflect variation in butterfat content from 3.5 percent.

§ 1004.71 Computation of weighted average prices.

For each month the market administrator shall compute the weighted average price and for each of the months of July 1970 through February 1971 the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1004.70 for all handlers who filed the reports prescribed by § 1004.30 for the month and who made the payments pursuant to § 1004.85 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1004.82;

(c) Subtract if the average butterfat content of milk specified in subparagraph (2) of paragraph (e) of this section is more than 3.5 percent, or add if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1004.81 and multiplying the result by the total hundredweight of such milk.

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

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

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1004.70(e).

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" and shall be the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers during the months of July 1970 through February 1971.

§ 1004.72 Computation of uniform prices for base milk and excess milk.

For each of the months from the effective date hereof through June 1970 and after February 1971 the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk received from producers, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(a) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to § 1004.71 (a) as follows:

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I milk price; and

(3) Add together the resulting amounts:

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and round to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(c) From the amount resulting from the computations of § 1004.71 (a) through (c) subtract an amount computed by multiplying the hundredweight of milk specified in § 1004.71(d)(2) by the weighted average price;

(d) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section by the hundredweight of excess milk, from the amount computed pursuant to paragraph (c) of this section;

(e) Divide the amount calculated pursuant to paragraph (d) of this section by the total hundredweight of base milk for handlers included in these computations: *Provided,* That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to paragraph (f) of this section the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk.

PAYMENTS

§ 1004.80 Time and method of payment.

(a) Except as provided in (b) and (d) of this section, each pool handler shall make payment as specified in subparagraphs (1) and (2) of this paragraph to each producer from whom milk is received.

(1) On or before the last day of each month at not less than the Class II

price for the preceding month per hundredweight for his deliveries of producer milk during the first 15 days of the month; and

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.72 (c) through (f) with respect to base milk received from such producer and not less than the excess price determined pursuant to § 1004.72 (a) and (b) for excess milk received from such producers subject to the following adjustments:

(i) Proper deductions authorized in writing by such producers;

(ii) Partial payments made pursuant to subparagraph (1) of this paragraph;

(iii) The butterfat differential computed pursuant to § 1004.81; and

(iv) Less the location differential received pursuant to § 1004.82: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1004.86 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) In the case of milk received by a handler from a cooperative association in its capacity as the operator of a pool plant such handler shall on or before the second day prior to the date on which payments are due individual producers, pay to such cooperative association for milk so received during the month, an amount not less than the value of such milk computed at the applicable class prices for the location of the plant of the buying handler.

(d) Each handler who receives milk from a cooperative association handler pursuant to § 1004.10(c), shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a)(1) of this section; and

(2) A final payment equal to the value of such milk at the uniform price(s) adjusted by the applicable differentials pursuant to §§ 1004.81 and 1004.82, less the amount of partial payment on such milk.

§ 1004.81 Butterfat differential.

In making the payments to producers and cooperative associations required pursuant to § 1004.80, each handler shall add for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of 1 percent of average butterfat content below 3.5 percent, as a butterfat differential an amount per hundredweight which shall be computed by the market administrator as follows: Multiply by 0.115 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

§ 1004.82 Location differential to producers.

(a) Subject to the exception pursuant to § 1004.15(d), for that milk received from producers and from cooperative association handlers pursuant to § 1004.10 (c) at a pool plant located 55 miles or more from the city hall in Philadelphia, Pa., and also at least 75 miles from the nearer of the zero milestone in Washington, D.C., or the city hall in Baltimore, Md. (all distances to be the shortest highway distance as determined by the market administrator), the uniform price computed pursuant to § 1004.71 during any month of July 1970 through February 1971 and the uniform price for base milk computed pursuant to § 1004.72 for any month from the effective date hereof through June 1970 and after February 1971 shall be reduced 1.5 cents for each 10 miles distance or fraction thereof that such plant is from the nearest of such basing points.

(b) For purposes of computations pursuant to §§ 1004.85 and 1004.86 the weighted average price shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant(s) from which the milk was received with respect to other source milk for which a value is computed pursuant to § 1004.70(e).

§ 1004.83 Direct-delivery differential.

For producer milk received at a plant located within 55 miles of the city hall in Philadelphia, Pa., the handler in making payments to producers and cooperative association handlers pursuant to § 1004.10(c), in addition to any amounts required by other provisions of this part, shall pay 6 cents per hundredweight of milk so received.

§ 1004.84 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1004.61 and 1004.62, 1004.85, and 1004.87 and out of which he shall make all payments from such fund pursuant to §§ 1004.86 and 1004.87: *Provided*, That the market administrator shall offset the payment due to a handler against payment due from such handler.

§ 1004.85 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1004.70 for such handler;

(b) The sum of:

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1004.10(c) at the applicable uniform price(s) pursuant to §§ 1004.71 and 1004.72 adjusted by location differentials, less in the case of a cooperative association on milk for which it is a handler pursuant to § 1004.10(c), the amount due from other handlers pursuant to § 1004.80(d); and

(2) The value at the weighted average price adjusted by the applicable location differential on nonpool milk pursuant to § 1004.82(b) (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.70(e).

§ 1004.86 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1004.85(b) exceeds the amount computed pursuant to § 1004.85(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1004.87 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1004.88 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, is making payments directly to producers for milk (other than milk of his own production) pursuant to § 1004.80(a) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator on or before the 20th day after the end of the month. Such money shall be expended by the

market administrator to provide market information and to verify the weights, samples and tests of milk of producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 1004.80(a) as are authorized by such producers on or before the 18th day after the end of each month and pay such deductions to the cooperative rendering such services.

§ 1004.89 Expense of administration.

As his pro rata share of the expense of administration, each handler shall pay to the market administrator on or before the 20th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe with respect to milk handled during the month as follows:

(a) Each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1004.10(c), and a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant) with respect to his receipts of producer milk (including such handler's own-farm production, milk received from a cooperative association pursuant to § 1004.10(c), and milk transferred in bluk from a pool plant owned and operated by a cooperative association) and other source milk allocated to Class I pursuant to § 1004.46(a) (5) and (9) and the corresponding step of § 1004.46(b);

(b) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area in excess of his receipts of Class I milk from pool plants, cooperative associations as handlers pursuant to § 1004.10(b), and other order plants assigned to such disposition.

§ 1004.89a Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin until the first 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 part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1004.90 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1004.91.

§ 1004.91 Suspension or termination.

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

§ 1004.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1004.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such 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 assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1004.100 Agents.

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

§ 1004.101 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Signed at Washington, D.C., on: March 16, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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