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FEDERAL REGISTER

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Agencies in this issue—

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Agricultural Research Service
Civil Aeronautics Board
Civil Service Commission
Consumer and Marketing Service
Defense Supply Agency
Education Office
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
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Food and Drug Administration
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Now Available

LIST OF CFR SECTIONS AFFECTED

1949–1963

This volume contains a compilation of the "List of Sections Affected" for all titles of the Code of Federal Regulations for the years 1949 through 1963. All sections of the CFR which have been expressly affected by documents published in the daily Federal Register are enumerated.

Reference to this list will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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Title 3—THE PRESIDENT

Proclamation 4003

LEIF ERIKSON DAY, 1970

By the President of the United States of America

A Proclamation

Almost ten centuries ago Leif Erikson, inspired by a vision of an abundant land to the West, braved a stormy and uncharted North Atlantic to reach the shores of North America. The legend of Vinland—the land of wild grapes, where wheat sowed itself in naturally cultivated fields, where rivers were of milk and honey, and where dew was sweet and fell like manna from heaven—persisted through the ages. Together with Leif Erikson's example of courage and determination it encouraged many descendants of the Vikings to cross the Atlantic Ocean, settle in this land, and help build the New World.

We are still inspired by men of Leif Erikson's vision and courage. It is, therefore, appropriate that today we give national recognition to this intrepid Norse explorer; and I am pleased to comply with the request of the Congress of the United States, in a joint resolution approved September 2, 1964 (78 Stat. 849), that the President proclaim October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Friday, October 9, 1970, as Leif Erikson Day; and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in schools and churches, or other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fifth.

Richard Nixon

[F.R. Doc. 70-12672; Filed, Sept. 18, 1970; 3:44 p.m.]

Proclamation 4004

COLUMBUS DAY, 1970

By the President of the United States of America

A Proclamation

On Columbus Day, 1970, we celebrate once more the historic achievement of the great Italian navigator and explorer whose vision, courage and skill led to the enduring settlement of the new world by the peoples of the old.

Sailing in the service of the Spanish Crown, Christopher Columbus established the first permanent European colony in the Americas, and heralded the great migration of peoples to this hemisphere. Many men and women have come and settled here from Italy, the native land of the great Captain, as so many others have come and settled from places throughout the world.

In the United States we are justly proud to count ourselves heirs to the spirit and determination of Christopher Columbus. We rightly honor the memory of that indomitable faith which sustained him on his historic voyages and resulted in the development of this great nation of ours.

In tribute to the achievement of Columbus, the Congress of the United States, by a joint resolution approved April 30, 1934 (48 Stat. 657), requested the President to proclaim October 12 of each year as Columbus Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Monday, October 12, 1970, as Columbus Day; and I invite the people of this nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of the great explorer.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand, this eighteenth day of September, in the year of our Lord nineteen hundred seventy, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[F.R. Doc. 70-12673; Filed, Sept. 18, 1970; 3:45 p.m.]

Executive Order 11558

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the carriers represented by the National Railway Labor Conference, designated in List A attached hereto and made a part hereof, and certain of their employees represented by the United Transportation Union, a labor organization; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act as amended; and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of five members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to the disputes within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the Board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which the disputes arose.

Richard Nixon

THE WHITE HOUSE,
September 18, 1970.

LIST A

EASTERN RAILROADS

Akron and Barberton Belt Railroad
Akron, Canton & Youngstown Railroad
Ann Arbor Railroad
Baltimore and Ohio Railroad
  Curtis Bay Railroad
  Strouds Creek and Muddlety Territory
  Former BR&P Territory
Baltimore and Ohio Chicago Terminal Railroad
Bangor and Aroostook Railroad
Bessemer and Lake Erie Railroad
Boston and Maine Corporation
Brooklyn Eastern District Terminal
Buffalo Creek Railroad
Bush Terminal Railroad
Central Railroad Company of New Jersey
Central Vermont Railway, Inc.
Chicago River and Indiana Railroad
Chicago South Shore and South Bend Railroad
Chicago Union Station Company
Cincinnati Union Terminal Company
Delaware and Hudson Railway
Detroit and Toledo Shore Line Railroad
Detroit Terminal Railroad
Detroit, Toledo and Ironton Railroad
Erie Lackawanna Railway
Grank Trunk Western Railroad
Indiana Harbor Belt Railroad
Indianapolis Union Railway
Lake Terminal Railroad
Lehigh and Hudson River Railway
Lehigh and New England Railway
Lehigh Valley Railroad
Maine Central Railroad
  Portland Terminal Company
McKeesport Connecting Railroad
Monongahela Railway
Monon Railroad
Montour Railroad
Newburgh and South Shore Railway
New York and Long Branch Railroad
New York, Susquehanna and Western Railroad
Norfolk and Western Railway:
  Lines of former New York, Chicago and St. Louis Railroad
  Lines of former Pittsburgh and West Virginia Railway
Northampton and Bath Railroad
Penn Central Transportation Company
Pennsylvania-Reading Seashore Lines
Pittsburg & Shawmut Railroad
Pittsburgh and Lake Erie Railroad, Lake Erie and Eastern Railroad
Pittsburgh, Chartiers & Youghiogheny Railway
Reading Company
Staten Island Rapid Transit Railway
Toledo Terminal Railroad
Union Freight Railroad (Boston)
Washington Terminal Company
Western Maryland Railway
Youngstown and Northern Railroad
Youngstown and Southern Railway

LIST A

WESTERN RAILROADS

Alabama, Tennessee and Northern Railroad
Alton & Southern Railway
Atchison, Topeka & Santa Fe Railway
Bauxite & Northern Railway
Burlington Northern, Inc.
  Former Chicago, Burlington & Quincy Railroad
  Former Great Northern Railroad
  Former King Street Passenger Station
  Former Northern Pacific Railway
  Former Pacific Coast Railroad
  Former Spokane, Portland & Seattle Railway System Lines
Butte, Anaconda & Pacific Railway
Belt Railway Company of Chicago
Camas Prairie Railroad
Chicago & Eastern Illinois Railroad
Chicago & Illinois Midland Railway
Chicago and North Western Railway
Chicago and Western Indiana Railroad

LIST A—Continued

WESTERN RAILROADS—continued

Chicago, Milwaukee, St. Paul and Pacific Railroad (Lines East and Lines West)
Chicago Produce Terminal Company
Chicago, Rock Island and Pacific Railroad
Chicago Short Line Railway
Chicago, West Pullman & Southern Railroad
Colorado & Southern Railway
Columbia & Cowlitz Railway
Davenport, Rock Island and North Western Railway
Denver and Rio Grande Western Railroad
Des Moines Union Railway
Duluth, Missabe and Iron Range Railway
Duluth Union Depot and Transfer Company
Duluth, Winnipeg & Pacific Railway
East St. Louis Junction Railroad
Elgin, Joliet and Eastern Railway
Fort Worth and Denver Railway
Galveston, Houston and Henderson Railroad
Galveston Wharves
Green Bay & Western Railroad
Houston Belt & Terminal Railway
Illinois Central Railroad
Illinois Northern Railway
Illinois Terminal Railroad
Joint Texas Division of CRI&P-FtW&D
Kansas City Southern Railway
Kansas City Terminal Railway
Lake Superior Terminal & Transfer Railway
Longview, Portland & Northern Railway
Los Angeles Junction Railway
Louisiana & Arkansas Railway
Manufacturers Railway
Midland Continental Railroad
Minneapolis Eastern Railway
Minneapolis, Northfield and Southern Railway
Minnesota, Dakota and Western Railway
Minnesota Transfer Railway
Missouri-Kansas-Texas Railroad
Missouri Pacific Railroad
  Missouri-Illinois Railroad
New Orleans Union Passenger Terminal
Norfolk and Western Railway (Lines formerly operated by Wabash R. R., West of Detroit)
Northwestern Pacific Railroad
Ogden Union Railway and Depot Company
Oregon, California & Eastern Railway
Peoria and Pekin Union Railway
Portland Terminal Railroad Company
Port Terminal Railroad Association
Quanah, Acme and Pacific Railway
St. Joseph Terminal Railroad
St. Louis-San Francisco Railway
  NEO District
St. Louis Southwestern Railway
Saint Paul Union Depot Company
San Diego & Arizona Eastern Railway
Sioux City Terminal Railway
Soo Line Railroad
Southern Pacific Transportation Company:
  Pacific Lines and Texas & Louisiana Lines
  Former El Paso and Southwestern System
  Nogales, Arizona, Yard
South Omaha Terminal Railway
Spokane International Railroad
Terminal Railroad Association of St. Louis
Texas and Pacific Railway
  Former, Kansas, Oklahoma & Gulf Railway
  Fort Worth Belt Railway
  New Orleans & Lower Coast Railroad
  Texas-New Mexico Railway
Texas-Mexican Railway
Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans
Toledo, Peoria & Western Railroad
Union Pacific Railroad
Union Terminal Company (Dallas)
Union Terminal Railway-St. Joseph Belt Railway
Western Pacific Railroad
Wichita Terminal Association

LIST A

SOUTHEASTERN RAILROADS

Atlanta and West Point Rail Road
The Western Railway of Alabama
Atlanta Joint Terminals
Birmingham Southern Railroad
Central of Georgia Railway
Chesapeake and Ohio Railway
Clinchfield Railroad
Georgia Railroad
Gulf, Mobile and Ohio Railroad
Jacksonville Terminal Company
Kentucky & Indiana Terminal Railroad
Louisville and Nashville Railroad
New Orleans Public Belt Railroad
Norfolk & Portsmouth Belt Line Railroad
Norfolk and Western Railway (Atlantic and Pocahontas Regions, including Sandusky Line)
Norfolk Southern Railway
Richmond, Fredericksburg and Potomac Railroad (including Potomac Yard)
Seaboard Coast Line Railroad
Southern Railway Company
Alabama Great Southern Railroad (including former New Orleans and Northeastern Railroad)
Cincinnati, New Orleans and Texas Pacific Railway
Georgia Southern and Florida Railway
Harriman and Northeastern Railroad
New Orleans Terminal Company
St. Johns River Terminal Company

[F.R. Doc. 70-12692; Filed, Sept. 18, 1970; 5:04 p.m.]

Executive Order 11559

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the carriers represented by the National Railway Labor Conference, designated in List A attached hereto and made a part hereof, and certain of their employees represented by the three labor organizations, designated in List B attached hereto and made a part hereof; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of five members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to the disputes within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the Board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which the disputes arose.

Richard Nixon

THE WHITE HOUSE,
September 18, 1970.

LIST A

EASTERN RAILROADS

Akron & Barberton Belt Railroad
Akron, Canton & Youngstown Railroad
Ann Arbor Railroad, The
Baltimore & Eastern Railroad
Baltimore & Ohio Railroad
Baltimore & Ohio Chicago Terminal Railroad
Staten Island Rapid Transit Railway
Bangor and Aroostook Railroad
Bessemer and Lake Erie Railroad
Boston and Maine Corporation
Brooklyn Eastern District Terminal
Boston Terminal Corporation
Buffalo Creek Railroad
Bush Terminal Railroad
Canadian National Railways—Great Lakes and St. Lawrence Regions, Lines in the United States
Canadian Pacific Railway
Central Railroad Company of New Jersey
New York and Long Branch Railroad Company
Central Vermont Railway, Inc.
Chicago River and Indiana Railroad
Chicago South Shore and South Bend Railroad
Chicago Union Station Company
Cincinnati Union Terminal Company
Cleveland Union Terminals Company
Dayton Union Railway
Delaware and Hudson Railway
Detroit and Toledo Shore Line Railroad
Detroit Terminal Railroad
Detroit, Toledo and Ironton Railroad
Erie Lackawanna Railway
Grand Trunk Western Railroad
Indiana Harbor Belt Railroad
Indianapolis Union Railway
Lake Terminal Railroad
Lehigh and Hudson River Railway
Lehigh and New England Railway
Lehigh Valley Railroad
Long Island Rail Road
Maine Central Railroad Company
Portland Terminal Company
Monongahela Railway
Monon Railroad
Montour Railroad
Newburgh and South Shore Railway
New York Dock Railway
New York, Susquehanna and Western Railroad
Norfolk and Western Railway (Lines of former New York, Chicago and St. Louis Railroad, and lines of former Pittsburgh and West Virginia Railway)
Penn Central Transportation Company
Pennsylvania-Reading Seashore Lines
Pittsburg & Shawmut Railroad
Pittsburgh & Lake Erie Railroad
Pittsburgh, Chartiers & Youghiogheny Railway
Railroad Perishable Inspection Agency
Reading Company
Toledo Terminal Railroad
River Terminal Railway
Upper Merion & Plymouth Railroad
Washington Terminal Company
Western Maryland Railway
Western Warehousing Company (Chicago and Harrisburg Divisions)
Youngstown and Northern Railroad
Youngstown & Southern Railway

LIST A

WESTERN RAILROADS

Alton & Southern Railway
Atchison, Topeka and Santa Fe Railway
Bauxite and Northern Railway
Beaver, Meade and Englewood Railroad
Belt Railway Company of Chicago
Butte, Anaconda & Pacific Railway
Camas Prairie Railroad
Chicago & Eastern Illinois Railroad
Chicago & Illinois Midland Railway
Chicago and North Western Railway
Chicago and Western Indiana Railroad
Chicago, Burlington and Quincy Railroad
Chicago Heights Terminal Transfer Railroad
Chicago, Milwaukee, St. Paul and Pacific Railroad
Chicago Produce Terminal Company
Chicago, Rock Island and Pacific Railroad

LIST A—Continued

WESTERN RAILROADS—continued

Chicago Short Line Railway
Chicago, West Pullman and Southern Railroad
Colorado and Southern Railway
Colorado & Wyoming Railway
Davenport, Rock Island and North Western Railway
Denver and Rio Grande Western Railroad
Denver Union Terminal Railway
Des Moines Union Railway
Duluth, Missabe & Iron Range Railway
Duluth Union Depot & Transfer Company
Duluth, Winnipeg and Pacific Railway
Elgin, Joliet and Eastern Railway
Fort Worth and Denver Railway
Fort Worth Belt Railway
Galveston, Houston and Henderson Railroad
Great Northern Railway
Green Bay and Western Railroad
Houston Belt & Terminal Railway
Illinois Central Railroad
Illinois Northern Railway
Illinois Terminal Railroad
Joint Texas Division of the CRI&P—FW&D Railway
Kansas City Southern Railway
  Arkansas Western Railway
  Joplin Union Depot Company
  Kansas City, Shreveport and Gulf Terminal Company
Kansas City Terminal Railway
King Street Passenger Station
Lake Superior Terminal and Transfer Railway
Los Angeles Junction Railway
Louisiana and Arkansas Railway
Minneapolis, Northfield and Southern Railway
Minnesota and Manitoba Railway
Minnesota Transfer Railway
Missouri-Kansas-Texas Railroad
Missouri Pacific Railroad
  Brownsville & Matamoros Bridge Company
  Missouri-Illinois Railroad
Norfolk and Western Railway (Lines formerly operated by the Wabash Railroad Company)
Northern Pacific Railway
Northwestern Pacific Railroad
Oklahoma City Stock Yards Agency
Oregon, California and Eastern Railway
Pacific Coast Railroad Company
Peoria and Pekin Union Railway
Portland Terminal Railroad Company
Port Terminal Railroad Association
Pueblo Joint Interchange Bureau
St. Joseph Terminal Railroad Company
St. Louis-San Francisco Railway
St. Louis Southwestern Railway
Saint Paul Union Depot Company
San Diego and Arizona Eastern Railway
Soo Line Railroad
Southern Pacific Transportation Company (Pacific Lines and Texas and Louisiana Lines)
South Omaha Terminal Railway
Spokane International Railroad
Spokane, Portland and Seattle Railway (System Lines)
Terminal Railroad Association of St. Louis
Texas and Pacific Railway
  Abilene and Southern Railway
  El Paso Union Passenger Depot Company
  Kansas, Oklahoma and Gulf Railway
  Texarkana Union Station Trust
  Texas-New Mexico Railway
  Weatherford, Mineral Wells and Northwestern Railway
Texas Mexican Railway
Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans
Toledo, Peoria and Western Railroad
Union Pacific Railroad
Union Terminal Company (Dallas)
Union Terminal-St. Joseph Belt Railway
Walla Walla Valley Railway
Western Pacific Railroad
Western Weighing and Inspection Bureau
Wichita Terminal Association
Wichita Union Terminal Railway Company

LIST A

SOUTHEASTERN RAILROADS

Atlanta and West Point Rail Road,
The Western Railway of Alabama
Atlanta Joint Terminals
Central of Georgia Railway
Chesapeake and Ohio Railway
Clinchfield Railroad
Georgia Railroad
Gulf, Mobile and Ohio Railroad
Jacksonville Terminal Company
Kentucky & Indiana Terminal Railroad
Louisville and Nashville Railroad
New Orleans Public Belt Railroad
Norfolk and Portsmouth Belt Line Railroad
Norfolk and Western Railway (Atlantic and Pocahontas Regions)
Norfolk Southern Railway
Richmond, Fredericksburg and Potomac Railroad (including Potomac Yards)
Seaboard Coast Line Railroad
Southern Railway
Alabama Great Southern Railroad
Cincinnati, New Orleans and Texas Pacific Railway
Georgia Southern and Florida Railway
Harriman and Northeastern Railroad
New Orleans Terminal Company
St. Johns River Terminal Company

LIST B

Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes (including the Transportation-Communication Division and Allied Services Division.)
Brotherhood of Maintenance of Way Employes
Hotel and Restaurant Employees and Bartenders International Union

[F.R. Doc. 70-12693; Filed, Sept. 18, 1970; 5:06 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that the position of Confidential Secretary to the Assistant Secretary for Safety and Consumer Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (22) is added to paragraph (a) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

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

(22) One Confidential Secretary to the Assistant Secretary for Safety and Consumer Affairs.

* * * * *

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

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

[F.R. Doc. 70–12639; Filed, Sept. 21, 1970; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70–264]

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, in paragraph (e) (10) relating to the State of North Carolina, a new subdivision (vi) relating to Bertie County is added to read:

(10) *North Carolina* * * *

(vi) That portion of Bertie County bounded by a line beginning at the junction of North Carolina Highway 308 and Secondary Road 1112; thence, following North Carolina Highway 308 in a northwesterly direction to Secondary Road 1119; thence, following Secondary Road 1119 in a southwesterly direction to Secondary Road 1120; thence, following Secondary Road 1120 in a southwesterly direction to North Carolina Highway 11; thence, following North Carolina Highway 11 in a southwesterly direction to the Bertie-Martin County line, also the Roanoke River; thence, following the north bank of the Roanoke River, also the Bertie-Martin County line, in a generally southeasterly direction to Secondary Road 1109; thence, following Secondary Road 1109 in a generally northeasterly direction to Secondary Road 1108; thence, following Secondary Road 1108 in a northwesterly direction to Secondary Road 1112; thence, following Secondary Road 1112 in a northeasterly direction to its junction with North Carolina Highway 308.

2. In § 76.2, in paragraph (e) (15) relating to the State of Texas, subdivision (viii) relating to Liberty County is deleted; subdivision (ix) relating to Montgomery, San Jacinto, and Harris Counties is amended; and new subdivisions (xvi) relating to Randall County and (xvii) relating to McLennan Counties are added to read:

(15) *Texas.* * * *

(ix) The adjacent portions of Montgomery, San Jacinto, Harris, and Liberty Counties bounded by a line beginning at the junction of the Liberty-San Jacinto County line and Farm-to-Market Road 223; thence, following Farm-to-Market Road 223 in a southeasterly direction to State Highway 105; thence, following State Highway 105 in a southwesterly direction to State Highway 321; thence, following State Highway 321 in a southeasterly direction to Farm-to-Market Road 686; thence, following Farm-to-Market Road 686 in a generally southwesterly direction to Farm-to-Market Road 1960; thence, following Farm-to-Market Road 1960 in a generally southwesterly direction to U.S. Highway 59 in Harris County; thence, following U.S. Highway 59 in a northeasterly direction to the Harris-Montgomery County line; thence, following the Harris-Montgomery County line in a generally northwesterly direction to Interstate Highway 45; thence, following Interstate Highway 45 in a southerly direction to Farm-to-Market Road 1960; thence, following Farm-to-Market Road 1960 in a southwesterly direction to State Highway 290; thence, following State Highway 290 in a northwesterly direction to the Harris-Waller County line; thence, following the Harris-Waller County line in a northwesterly direction to Spring Creek (also the Harris-Waller County line); thence; following the south bank of the Spring Creek (also the Harris-Waller County line) in a generally southeasterly direction to the Montgomery-Waller County line; thence, following the Montgomery-Waller County line in a northerly direction to Farm-to-Market Road 1488; thence, following Farm-to-Market Road 1488 in a generally northeasterly direction to Interstate Highway 45; thence, following Interstate Highway 45 in a northerly direction to State Highway 105; thence, following State Highway 105 in a generally northeasterly direction to the Montgomery-Liberty County line; thence, following the Montgomery-Liberty County line in a northwesterly direction to the Liberty-San Jacinto County line; thence, following the Liberty-San Jacinto County line in a northeasterly direction to its junction with Farm-to-Market Road 223.

* * * * *

(xvi) That portion of Randall County bounded by a line beginning at the junction of the Randall-Armstrong County line and Farm-to-Market Road 1258; thence, following Farm-to-Market Road 1258 in a generally northwesterly direction to Farm-to-Market Road 1151; thence, following Farm-to-Market Road 1151 in a generally southwesterly direction to Farm-to-Market Road 1541; thence, following Farm-to-Market Road 1541 in a northerly direction to State Highway 335; thence following State Highway 335 in a generally westerly direction to U.S. Highways 60, 87; thence, following U.S. Highways 60, 87 in a generally southwesterly direction to Farm-to-Market Road 2219; thence, following Farm-to-Market Road 2219 in a westerly direction to Farm-to-Market Road 168; thence, following Farm-to-Market Road 168 in a generally southerly direction to the Randall-Castro County line; thence, following the Randall-Castro County line in an easterly direction to the Randall-Swisher County line; thence, following the Randall-Swisher County line in an easterly direction to the Randall-Armstrong County line; thence, following the Randall-Armstrong County line in a northerly direction to its junction with Farm-to-Market Road 1259.

(xvii) That portion of McLennan County bounded by a line beginning at the junction of the McLennan-Limestone County line and U.S. Highway 84; thence, following U.S. Highway 84 in a generally southwesterly direction to U.S. Highway 77; thence, following U.S. Highway 77 in a generally southeasterly direction to the McLennan-Falls County line; thence, following the McLennan-Falls County line in a northeasterly direction to the McLennan-Limestone County line; thence, following the McLennan-Limestone County line in a northwesterly direction to its junction with U.S. Highway 84.

(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 a portion of Bertie County, N.C., and portions of Harris, Liberty, Randall, and McLennan Counties in Texas 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 the quarantined portions of such counties.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. 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 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 September 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70–12581; Filed, Sept. 21, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70–WE–30–AD; Amdt. 39–1082]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TPE331–1 and –2 Series Engines High Speed Pinion Bearing

A recent failure of a bearing on the high-speed pinion shaft in a Model TPE 331–1 engine resulted in a failure of the engine. A number of these bearings have shown excessive wear within a few hours of operation during production runs of new engines. Impending failure of the bearing due to premature wear can be detected by analysis of an engine oil sample and inspection of the oil filter for metal particles. A partial failure of the bearing and high-speed pinion may be indicated by fluctuation or loss of engine torque pressure.

Since this condition is likely to exist or develop in engines of this type design in service, an airworthiness directive is being issued to require an engine oil sample analysis and visual inspection of the oil filter. In addition, a revision to the airplane flight manuals is required to advise the pilot to shut down the engine if torque fluctuation or loss of torque pressure occurs.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

AIRESEARCH. The AiResearch Manufacturing Co. of Arizona. Applies to Turbopropeller Engines Model TPE331–1 and –2 installed in, but not limited to Mooney MU–2, Merlin 2B, Volpar Turboliner, and Short Skyvan Aircraft.

Compliance required as indicated.

To detect impending failure of the high-speed pinion bearings accomplish the following:

(a) New engines with less than 25 hours' time in service or overhauled engines with less than 25 hours' time in service since overhaul on the effective date of this AD must have the following accomplished:

(1) After more than 5 hours' time in service, but before exceeding 25 hours' time in service after the effective date of this AD, an engine oil sample and the engine oil filter element must be returned to AiResearch Manufacturing Co., or a facility approved by the Chief, Aircraft Engineering Division, FAA, Western Region, for laboratory examination.

(2) Prior to operation of the engine in excess of 35 hours' time in service, either since new or since time of overhaul, the owner or operator must recieve written confirmation from AiResearch, or other approved facility, that an acceptable level of oil contamination exists.

(3) The provisions of (a) (1) and (2), above, must be complied with after each subsequent overhaul unless the engine log book indicates that the engine was subjected to a 5-hour acceptance test as described in the FAA-approved overhaul procedures as revised September 1, 1970, and a determination of acceptable oil and filter contamination was made by AiResearch or other FAA-approved facility prior to returning the engine to service.

(b) A one time inspection of new engines with more than 25 hours but less than 50 hours' time in service or overhauled engines with more than 25 hours' time in service but less than 50 hours' time in service since overhaul on the effective date of this AD must be accomplished:

(1) Within 10 hours' time in service after the effective date of this AD conduct a visual inspection of the oil filter in accordance with the engine maintenance manual. If a significant quantity of metal particles are found, the cause must be determined before further operation.

NOTE: AiResearch Service Bulletin No. 624, dated August 28, 1970, or later FAA-approved revision, lists for reference the serial number of all new or overhauled engines which had less than 50 hours' time in service since new or overhaul on August 28, 1970, and describes an acceptable means of accomplishing items (a) and (b).

(c) Within 50 hours' time in service after the effective date of this AD, revise the normal procedures section of the applicable FAA-Approved Airplane Flight Manuals for aircraft equipped with AiResearch Model TPE331–1 and –2 engines to include a cautionary note to read as follows:

If sudden loss or significant fluctuation of torque pressure indication occurs, the engine should be promptly shut down and the cause determined before further operation.

This amendment becomes effective on September 22, 1970.

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

Issued in Los Angeles, Calif., on September 10, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70–12542; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 69–WE–93]

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

Designation of Additional Control Area

On July 28, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12076) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate Control 1156.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

Section 71.163 (35 F.R. 2046) is amended by adding:

Control 1156. That airspace extending upward from 5,000 feet MSL within 5 miles each side of the San Diego, Calif., VORTAC 262° radial, including the additional airspace within lines diverging at angles of 5° from the centerline at the VORTAC, extending from the VORTAC to its intersection with Control 1177.

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

Issued in Washington, D.C., on September 16, 1970.

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

[F.R. Doc. 70–12543; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-57]

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

Alteration of Federal Airway Segment

On July 22, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11700) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would realign VOR Federal airway No. 25 from Yakima, Wash., direct to Ellensburg, Wash., including a west alternate segment.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

In § 71.123 (35 F.R. 2009) V-25 is amended by deleting "INT Yakima 305° and Ellensburg, Wash., 191° radials, Ellensburg;" and substituting "Ellensburg, Wash., including a west alternate via INT Yakima 305° and Ellensburg 191° radials;" therefor.

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

Issued in Washington, D.C. on September 16, 1970.

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

[F.R. Doc. 70-12544; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-58]

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

Alteration of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter VOR Federal airway No. 279 between Cloumbus, Ohio, and Findlay, Ohio.

To provide for the simultaneous movement of air traffic on V-279 between Columbus and Findlay and aircraft conducting approach procedures to Allen County Airport, Ohio, action is being taken herein to redesignate the segment of V-279 from the intersection of the Findlay 146° T (148° M) and Rosewood, Ohio, 045° T (046° M) radials to Findlay as a 7-mile-wide airway (4 miles northeast and 3 miles southwest of the centerline).

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

In § 71.123 (35 F.R. 2009) V-279 is amended by deleting "Findlay, Ohio." and substituting "INT Findlay, Ohio, 146° and Rosewood, Ohio, 045° radials; 7 miles wide (4 miles northeast and 3 miles southwest of the centerline) to Findlay." therefor.

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

Issued in Washington, D.C., on September 15, 1970.

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

[F.R. Doc. 70-12545; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-70]

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

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to alter the description of VOR Federal airway No. 45 and the Lacarne, Ohio, Restricted Area R-5502.

As presently designated, R-5502 extends into the northern half of V-45 to 2.4 miles of the centerline of the airway. To eliminate coordination requirements under joint use of R-5502, the Department of the Army has agreed to reduce R-5502 at its southern tip so as to provide V-45 with a 3-nautical-mile width north of its centerline adjacent to the restricted area. Action is taken herein to alter V-45 and R-5502 accordingly.

Since these amendments restore airspace to the public use and relieve a restriction, notice and public procedure thereon are unnecessary, and good cause exists for making these amendments effective on less than 30 days notice.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

1. Section 71.123 (35 F.R. 1103, 2009, 5465, 7857) is amended as follows: In V-45 following the phrase "Pellston, Mich." the sentence "The airspace within R-5502 is excluded." is added.

2. Section 73.55 (35 F.R. 2345) is amended as follows: In R-5502 the phrase "to lat. 41°32'02" N., long. 83°01'-05" W." is deleted and the phrase "to lat. 41°32'19" N., long. 83°00'05" W., to lat. 41°32'16" N., long. 83°01'24" W." is substituted therefor.

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

Issued in Washington, D.C., on September 16, 1970.

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

[F.R. Doc. 70-12546; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 70-WE-54]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Federal Airway and Jet Route and Revocation of Control Area

On July 22, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11701) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would designate VOR Federal airway No. 134, designate Jet Route No. 12 and revoke the Fairfield, Utah, additional control area.

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

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

1. Section 71.123 (35 F.R. 2009) is amended by adding the following:

V-134 From Fairfield, Utah, via Price, Utah; to Grand Junction, Colo.

2. Section 71.163 (35 F.R. 10504) is amended by deleting the following:

Fairfield, Utah.

3. Section 75.100 (35 F.R. 2359) is amended by adding the following:

Jet Route No. 12 (Salt Lake City, Utah, to Grand Junction, Colo.) from Salt Lake City, Utah, via Fairfield, Utah; to Grand Junction, Colo.

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

Issued in Washington, D.C., on September 16, 1970.

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

[F.R. Doc. 70-12548; Filed, Sept. 21, 1970; 8:47 a.m.]

[Airspace Docket No. 69-PC-9]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On July 8, 1970, a notice of proposed rule making was published in the FEDERAL

REGISTER (35 F.R. 10963) stating that the Federal Aviation Administration was considering an amendment to Part 73 of the Federal Aviation Regulations that would relocate Restricted Area R–7201.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

In § 73.72 (35 F.R. 2356) Restricted Area R–7201 is amended to read as follows:

R–7201 FARALLON DE MEDINILLA ISLAND, MARIANA ISLANDS

Boundaries: The area within a 3-nautical-mile radius of lat. 16°01'00'' N., long. 146°04'30'' E.
Designated altitudes: Surface to FL 600.
Time of use: Continuous.
Using agency: Commander, Naval Forces, Marianas.

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

Issued in Washington, D.C., on September 16, 1970.

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

[F.R. Doc. 70–12547; Filed, Sept. 21, 1970; 8:47 a.m.]

[Docket No. 10581; Amdt. 721]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (358 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF–ADF(NDB)–VOR SIAPs, effective October 15, 1970:

Fond du Lac, Wis.—Fond du Lac County Airport; ADF 1, Amdt. 2; Canceled.
Rock Springs, Wyo.—Rock Springs Municipal Airport; ADF 1, Amdt. 2; Canceled.
Washington, D.C.—Washington National Airport NDB (ADF) Runway 15, Amdt. 4; Canceled.
Washington, D.C.—Washington National Airport; NDB (ADF) Runway 36, Amdt. 3; Canceled.
Rock Springs, Wyo.—Rock Springs Municipal Airport; VOR 1, Amdt. 9; Canceled.

2. Section 97.15 is amended by establishing, revising, or canceling the following VOR/DME SIAPs, effective October 15, 1970:

Rock Springs, Wyo.—Rock Springs Municipal Airport; VOR/DME No. 1, Amdt. 6; Canceled.

3. Section 97.17 is amended by establishing, revising, or canceling the following ILS SIAPs, effective October 15, 1970:

Washington, D.C.—Washington National Airport; LDA Runway 18, Amdt. 4; Revised.

4. Section 97.19 is amended by establishing, revising, or canceling the following Radar SIAPs, effective October 15, 1970:

New York, N.Y.—John F. Kennedy International Airport; Radar 1, Amdt. 15; Revised.

5. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAPs, effective October 15, 1970:

Alexandria, Minn.—Alexandria Municipal Airport; VOR Runway 22, Amdt. 9; Revised.
Amarillo, Tex.—Amarillo Air Terminal; VOR Runway 21, Amdt. 17; Revised.
Athens, Ga.—Athens Municipal Airport; VOR Runway 2, Amdt. 5; Revised.
Athens, Ga.—Athens Municipal Airport; VOR Runway 27, Amdt. 5; Revised.
Atlanta, Ga.—De Kalb-Peachtree Airport; VOR Runway 27, Amdt. 8; Revised.
Auburn, Ind.—Auburn-De Kalb Airport; VOR Runway 9, Amdt. 1; Revised.
Bemidji, Minn.—Bemidji Municipal Airport; VOR Runway 13, Amdt. 5; Revised.
Chagrin Falls, Ohio—Chagrin Falls Airport; VOR–A, Amdt. 2; Revised.
Muskegon, Mich.—Muskegon County Airport; VOR–A, Amdt. 8; Revised.
Northampton, Mass.—LaFleur Airport; VOR–A, Orig.; Established.
North Myrtle Beach, S.C.—Myrtle Beach Airport; VOR Runway 23, Amdt. 4; Revised.
Olathe, Kans.—Johnson County Airport; VOR Runway 35, Amdt. 1; Revised.
Plymouth, Ind.—Plymouth Municipal Airport; VOR Runway 28, Orig.; Established.
Poughkeepsie, N.Y.—Dutchess County Airport; VOR–A, Amdt. 7; Revised.
Presque Isle, Maine—Municipal Airport; VOR Runway 19, Amdt. 4; Revised.
Redwood Falls, Minn.—Redwood Falls Municipal Airport; VOR–A, Amdt. 1; Revised.
Rock Springs, Wyo.—Rock Springs-Sweetwater County Airport; VOR–A, Orig.; Established.
Saranac Lake, N.Y.—Adirondack Airport; VOR Runways 5/9, Amdt. 5; Revised.
Toms River, N.J.—Robert J. Miller Airpark; VOR Runway 6, Amdt. 1; Revised.
Walnut Ridge, Ark.—Walnut Ridge Municipal Airport; VOR–A, Amdt. 7; Revised.
Westerly, R.I.—Westerly State Airport; VOR–A, Amdt. 2; Revised.
Youngstown, Ohio—Youngstown Municipal Airport; VOR Runway 18, Amdt. 8; Revised.
Abbeville, La.—Abbeville Municipal Airport; VOR/DME–A, Amdt. 1; Revised.
Bemidji, Minn.—Bemidji Municipal Airport; VOR/DME Runway 31, Orig.; Established.
Chincoteague, Va.—NASA Wallops Station; VOR/DME Runway 10, Orig.; Established.
Jefferson, Ga.—Jackson County Airport; VOR/DME Runway 34, Amdt. 2; Revised.
Jennings, La.—Jennings Airport; VOR/DME–A, Amdt. 1; Revised.
Patterson, La.—Harry P. Williams Memorial Airport; VOR/DME–A, Amdt. 3; Revised.
Presque Isle, Maine—Municipal Airport; VOR/DME Runway 1, Amdt. 4; Revised.
Rock Springs, Wyo.—Rock Springs-Sweetwater County Airport; VOR/DME Runway 25, Orig.; Established.
Walnut Ridge, Ark.—Walnut Ridge Municipal Airport; VOR/DME Runway 22, Amdt. 3; Revised.
Winder, Ga.—Winder Airport; VOR/DME–A, Amdt. 2; Revised.
Yazoo City, Miss.—Barrier Field; VOR/DME–A, Amdt. 2; Revised.

6. Section 97.25 is amended by establishing, revising, or canceling the following LOC–LDA SIAPs, effective October 15, 1970:

Amarillo, Tex.—Amarillo Air Terminal; LOC (BC) Runway 21, Amdt. 7; Revised.
Staunton, Va.—Shenandoah Valley Airport; LOC Runway 4, Orig.; Established.
Youngstown, Ohio—Youngstown Municipal Airport; LOC (BC) Runway 14, Orig.; Established.

7. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective October 15, 1970:

Amarillo, Tex.—Amarillo Air Terminal; NDB Runway 3, Amdt. 8; Revised.
Clinton, N.C.—Sampson County Airport; NDB Runway 6, Orig.; Established.
Fond du Lac, Wis.—Fond du Lac County Airport; NDB Runway 9, Orig.; Established.
Harrisburg, Ill.—Harrisburg-Raleigh Airport; NDB Runway 24, Amdt. 3; Revised.
Hayward, Wis.—Hayward Municipal Airport; NDB Runway 20, Amdt. 2; Revised.
Jasper, Tenn.—Marion County-Brown Field; NDB Runway 3, Orig.; Established.
Jasper, Tex.—Jasper County Airport; NDB Runway 17, Amdt. 1; Revised.
Morristown, N.J.—Morristown Municipal Airport; NDB Runway 5, Amdt. 6; Revised.
Muskegon, Mich.—Muskegon County Airport; NDB Runway 32, Amdt. 1; Revised.
Oxford, Conn.—Waterbury-Oxford Airport; NDB Runway 18, Orig.; Established.
Patterson, La.—Harry P. Williams Memorial Airport; NDB Runway 5, Amdt. 2; Revised.
Pine Mountain, Ga.—Gardens-Harris County Airport; NDB Runway 9, Amdt. 2; Revised.
Presque Isle, Maine—Municipal Airport; NDB–A, Amdt. 2; Revised.
Quakertown, Pa.—Upper Bucks County Airport; NDB Runway 29, Amdt. 4; Revised.

Rock Springs, Wyo.—Rock Springs-Sweetwater County Airport; NDB-A, Orig.; Established.
Staunton, Va.—Shenandoah Valley Airport; NDB Runway 4, Orig.; Established.
Youngstown, Ohio—Youngstown Municipal Airport; NDB Runway 32, Amdt. 12; Revised.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective October 15, 1970:

Amarillo, Tex.—Amarillo Air Terminal; ILS Runway 3, Amdt. 11; Revised.
Cedar Rapids, Iowa—Cedar Rapids Municipal Airport; ILS Runway 8, Amdt. 7; Revised.
Rock Springs, Wyo.—Rock Springs-Sweetwater County Airport; ILS Runway 25, Amdt. 15; Revised.
Youngstown, Ohio—Youngstown Municipal Airport; ILS Runway 32, Amdt. 17; Revised.

9. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective October 15, 1970:

Amarillo, Tex.—Amarillo Air Terminal; Radar-A, Amdt. 7; Revised.
Youngstown, Ohio—Youngstown Municipal Airport; Radar-A, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on September 10, 1970.

HARRY A. TURNPAUGH,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[F.R. Doc. 70-12471; Filed, Sept. 21, 1970; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XII—Defense Supply Agency

[DSA Reg. 5515.2]

PART 1250—INVESTIGATING AND PROCESSING CERTAIN NONCONTRACTUAL CLAIMS AND REPORTING RELATED LITIGATION

JULY 27, 1970.

Part 1250 is added to Title 32 of the Code of Federal Regulations, reading as set forth below. (This publication supersedes Part 1250 published in Volume 31, No. 110, dated Wednesday, June 8, 1966.)

Sec.
1250.1 References.
1250.2 Purpose and scope.
1250.3 Definitions.
1250.4 Significant changes.
1250.5 Responsibilities.
1250.6 Procedures.

AUTHORITY: The provisions of this Part 1250 issued under 5 U.S.C. 301; 10 U.S.C. 125; DOD Directive 5105.22, December 9, 1965.

§ 1250.1 References.[1]

(a) AR 27-20, Claims.

(b) AR 27-22, Claims Based on Negligence of Military Personnel or Civilian Employees under the Federal Tort Claims Act.

(c) AR 27-37, Claims in Favor of the United States for Damage to or Loss or Destruction of Army Property.

(d) AR 27-40, Litigation—General Provisions.

(e) JAGINST 5800.7, Manual of the Judge Advocate General, Department of the Navy, Chapter XXI.

(f) Federal Property Management Regulation, 41 CFR 101-39.8.

§ 1250.2 Purpose and scope.

(a) This Part 1250 provides procedures for investigating and processing claims and related litigation:

(1) By civilian and military personnel of the Defense Supply Agency for property lost or damaged incident to service (31 U.S.C. 240-243).

(2) Incident to use of Government vehicles and other property of the United States not cognizable under other law (10 U.S.C. 2737).

(3) Based on Negligence of Civilian and Military Employees under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671-2680.

(4) In favor of the United States, other than contractual, for loss, damage, or destruction of real or personal property in the possession, custody, or control of the Defense Supply Agency.

(b) This Part 1250 is applicable to HQ DSA and DSA field activities, except nonappropriated funds and related activities established pursuant to DSAR 1330.2, Open Messes and Other Military Sundry Associations and Funds, and DSAR 1330.4, Civilian Nonappropriated Funds and Related Activities. Claims involving these activities are processed pursuant to the regulations referenced therein.

§ 1250.3 Definitions.

(a) *Claims Investigating Officer.* A military officer or civilian employee of DSA, appointed in accordance with this Part 1250, to investigate and process claims within the purview of this Part 1250.

(b) *Member of the Army, member of the Navy, member of the Marine Corps, member of the Air Force.* Officers and enlisted personnel of these Military Services.

§ 1250.4 Significant changes.

This revision provides citations to the Army Regulations which have superseded those initially prescribed for the processing of most claims. It also contains special instructions for claims involving General Services Administration (GSA) motor pool system vehicles and provides procedures to be followed in litigation under the Federal Tort Claims Act when no administrative claim has been filed. Coverage for claims involving nonappropriated funds and related activities has been eliminated since DSAR 1330.2 and DSAR 1330.4 now prescribe the regulations to be followed.

§ 1250.5 Responsibilities.

(a) *DSA field activities.* (1) Heads of DSA Primary Level Field Activities are responsible for:

(i) Designating a qualified individual under their command, preferably one experienced in the conduct of investigations, as the Claims Investigating Officer for the activity.

(ii) Authorizing heads of subordinate activities to appoint Claims Investigating Officers where necessary.

(2) The Commander, DSA Administrative Support Center (DSASC), is responsible for designating a qualified individual, preferably one experienced in the conduct of investigations, as the Claims Investigating Officer for DSASC and HQ DSA.

(3) Claims Investigating Officers are responsible for the expeditious conduct of all investigations and the processing of reports in accordance with appropriate departmental regulations as prescribed by this Part 1250. To ensure prompt investigation of every incident while witnesses are available, and before damage has been repaired, the duties of personnel as Claims Investigating Officers will ordinarily have priority over any other assignments they may have.

(4) The Counsel, DSA Field Activities are responsible for:

(i) Receiving claims reports and information about related litigation, and processing these reports and information in accordance with this Part 1250 and the appropriate departmental regulations.

(ii) Providing directions and guidance to Claims Investigating Officers in the investigation and processing of claims.

(b) The Counsel, DSA (DSAH-G) is responsible for:

(1) Providing guidance to Counsel at DSA field activities on all claims and litigation matters within the purview of this Part 1250.

(2) Receiving claims reports and information on related litigation forwarded to HQ DSA, Attention: DSAH-G, and processing these in accordance with this Part 1250 and appropriate departmental regulations.

(3) Maintaining this Part 1250 in a current status and reviewing it annually.

§ 1250.6 Procedures.

(a) *Claims by military and civilian personnel of DSA for property lost or damaged incident to service (31 U.S.C. 240-243).* (1) The Claims Investigating Officer will conduct his investigation and prepare all necessary forms and reports in accordance with the appropriate portions of AR 27-20, except where the claimant is a member of the Navy or Marine Corps in which event the provisions of § 1250.1(e) will be followed.

(2) The completed report will be forwarded by the Claims Investigating Officer to one of the following activities for settlement:

(i) Where the claimant is a DSA civilian employee or a member of the Army; The Staff Judge Advocate for the

[1] Copies may be obtained from the Departments of the Army and Navy, and the Superintendent of Documents, U.S. Government Printing Office.

Army Area in which the Claims Investigating Officer is located.

(ii) Where the claimant is a member of the Navy or Marine Corps; the cognizant adjudicating authority as listed in § 1250.1(e), paragraphs 2124 and 2125.

(iii) Where the claimant is a member of the Air Force; the nearest Air Force Staff Judge Advocate.

(b) *Claims incident to the use of Government property not cognizable under any other law (10 U.S.C. 2737).* (1) The Claims Investigating Officer will conduct his investigation and prepare all necessary forms and reports in accordance with the appropriate portions of AR 27–20.

(2) The completed report will be forwarded by the Claims Investigating Officer to the Counsel for his activity or, if the activity has no Counsel, to the next higher echelon having such a position.

(3) The activity Counsel receiving the Claims Investigating Officer's report will review the report, and take all necessary action to assure that it is complete and in accordance with AR 27–20. He will forward the report together with his comments and recommendations to one of the following activities for settlement. Where the incident giving rise to the claim was occasioned by an act or omission of:

(i) *DSA civilian personnel.* Counsel, DSA.

(ii) *A member of the Army.* The Staff Judge Advocate of the Army Area in which the incident giving rise to the claim occurred.

(iii) *A member of the Navy or Marine Corps.* The District legal officer of the Naval District in which the incident giving rise to the claim occurred.

(iv) *A member of the Air Force.* The Air Force Staff Judge Advocate nearest the place where the incident giving rise to the claim occurred.

(c) *Claims under the Federal Tort Claims Act arising from negligence of DSA military or civilian personnel.* (1) The Claims Investigating Officer will conduct his investigation and prepare all necessary forms and reports in accordance with the appropriate portions of AR 27–20 and AR 27–22.

(2) The completed report will be forwarded by the Claims Investigating Officer to Counsel for his activity or, if his activity has no Counsel, to the next higher echelon having such a position.

(3) The activity Counsel receiving the Claims Investigating Officer's report will review the report and take all necessary action to assure that it is complete and in accordance with AR 27–20 and AR 27–22. He will forward the report together with comments and recommendations to one of the following activities for settlement. Where the incident giving rise to the claim was occasioned by an act or omission of:

(i) *DSA civilian personnel or a member of the Army.* The Staff Judge Advocate of the Army Area in which the incident giving rise to the claim occurred.

(ii) *A member of the Navy or Marine Corps.* The District legal officer of the Naval District in which the incident giving rise to the claim occurred.

(iii) *A member of the Air Force.* The Air Force Staff Judge Advocate nearest the place where the incident giving rise to the claim occurred.

(d) *Tort Claims in favor of the United States for damage to or loss or destruction of DSA property, or property in its custody or control.* (1) These claims will be investigated and processed in accordance with the provisions of AR 27–37 except:

(i) The duties of the claims officer will be performed by the Claims Investigating Officer.

(ii) The duties of The Staff Judge Advocate will be performed by Counsel, except where the property is a GSA motor pool system vehicle (see paragraph (e) of this section).

(iii) The reports of the Claims Investigating Officer will be furnished direct to Counsel for his activity or, if his activity has no Counsel, to the next higher echelon having such a position.

(iv) With respect to reports referred to them, Counsel are authorized to give receipts for any payments received and to execute releases where payment in full is received, except where the property is a GSA motor pool system vehicle (see paragraph (e) of this section). Offers of compromise will be processed pursuant to DSAM 7000.1, Chapter 12, section V, paragraph 120502.

(v) Where payment in full is not received after reasonable efforts have been made to collect the claim administratively, Counsel will refer the case directly to the U.S. attorney unless:

(*a*) The amount of the claim exceeds $5,000, in which event the case will be referred to Counsel, DSA.

(*b*) The amount of the debt is less than $250; or the record clearly shows that the debtor is unable to pay; or the debtor cannot be located; in which event the file may be closed and the debt treated as an uncollectable which does not have to be referred to the General Accounting Office.

(2) If, at any stage of the processing of a claim under subparagraph (1) of this paragraph, a claim is filed against the Government arising out of the same incident, or it becomes apparent that one will be filed, the claim under subparagraph (1) of this paragraph will be treated as a counterclaim, and included under the report filed in accordance with the applicable paragraph of this Part 1250.

(e) *Claims involving GSA motor pool system vehicles.* (1) Where a motor pool system vehicle issued to a DSA activity is involved in an accident giving rise to a claim under the Federal Tort Claims Act, the claim will be handled pursuant to paragraph (c) of this section.

(2) In the event of damage to a motor pool system vehicle which is not due to the fault of the operator, Counsel receiving the report will submit the report to the GSA's Regional Counsel for the Region that issued the vehicle pursuant to the Federal Property Management Regulation, paragraph 101–39.805, page 9. Damages to motor pool system vehicles caused by the negligence of a vehicle operator employed by DSA or caused by the negligence or misconduct of any other officer or employee of DSA are reimbursed to GSA. Determination affixing responsibility will be made by the Counsel to which the report is referred, after considering the views of GSA.

(f) *Reporting legal proceedings.* (1) All process and pleadings served on any personnel or activity of the Defense Supply Agency, and related to a claim covered by this Part 1250 or involving an incident which may give rise to a claim covered by this Part 1250, together with other immediately available data concerning the commencement of legal proceedings, will be promptly referred to Counsel for the activity involved, or, if the activity has no Counsel, to the next higher echelon having such a position.

(2) Any Military Service member or civilian employee of DSA (or his personal representative) against whom a domestic civil action or proceeding is brought for damage to property, or for personal injury or death, on account of his operation of a motor vehicle (Government or privately owned) in the scope of his employment (28 U.S.C. 2679) will:

(i) Upon receipt of process and pleadings or any other information regarding the commencement of such action or proceeding, immediately inform his Commander and Counsel as specified in subparagraph (1) of this paragraph.

(ii) Promptly deliver all process and pleadings served upon him, or an attested true copy thereof, to Counsel.

(3) Upon receipt of information or process and pleadings pursuant to subparagraphs (1) and (2) of this paragraph, Counsel will promptly prepare and process reports in accordance with the appropriate portions of AR 27–40 except that:

(i) If the incident giving rise to the litigation was occasioned by an act or omission of a member of the Navy or Marine Corps, or a member of the Air Force, information and reports required to be furnished The Judge Advocate General of the Army will be furnished instead to The Judge Advocates General of the Navy and Air Force respectively.

(ii) If the litigation is under the Federal Tort Claims Act and no administrative claim has been filed, Counsel will immediately advise the U.S. attorney and will furnish to the U.S. attorney, with two copies to the appropriate Military Service Judge Advocate General, a report of all information the activity has with respect to the claim and an affidavit by the Claims Investigating Officer to the effect that no administrative claim has been filed. If an administrative claim has been filed and has been referred to a Military Service, a copy of the process and pleadings and any information not previously furnished will be sent to the appropriate Military Service Judge Advocate General.

By order of the Director, Defense Supply Agency.

S. A. MacKenzie,
Colonel, U.S. Army,
Staff Director, Administration.

[F.R. Doc. 70–12516; Filed, Sept. 21, 1970; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 2—RECORDS AND TESTIMONY

Miscellaneous Amendments

Departmental regulations concerning availability of final opinions and orders, contained in Part 2, Subtitle A, Title 43, and the appendix thereto which lists field offices, are amended as set forth below, to conform with the reorganization of the appellate structure of the Department.

1. In § 2.4, paragraphs (a) and (b) are amended to read as follows:

§ 2.4 Opinions in adjudications of cases; administrative manuals.

(a) (1) Copies of final decisions and orders issued on and after July 1, 1970, in the following categories of cases are available for inspection and copying in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203:

(i) Contract appeals;

(ii) Appeals from decisions rendered by departmental officials relating to the use and disposition of public lands and their resources and the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf;

(iii) Appeals from orders and decisions issued by departmental officials and hearing examiners in proceedings relating to mine health and safety; and

(iv) Appeals from orders and decisions of hearing examiners in Indian probate matters other than those involving estates of Indians of the Five Civilized Tribes and Osage Indians.

(2) Copies of final opinions and orders issued in the following categories of cases are available for inspection and copying in the Docket and Records Section, Office of the Solicitor, Interior Building, Washington, D.C. 20240:

(i) Tort claims decided in the headquarters office of the Office of the Solicitors, and appeals from decisions of Regional Solicitors or Field Solicitors on tort claims;

(ii) Irrigation claims under Public Works Appropriation Acts (e.g., 79 Stat. 1103) or 25 U.S.C. section 388 decided in the headquarters office of the Office of the Solicitor, and appeals from decisions of Regional Solicitors on irrigation claims;

(iii) Appeals under § 2.2 respecting availability of records;

(iv) Appeals from decisions of officials of the Bureau of Indian Affairs, and Indian enrollment appeals; and

(v) Appeals from decisions of officers of the Bureau of Land Management and of the Geological Survey in proceedings relating to lands or interests in land, contract appeals, and appeals in Indian probate proceedings, issued prior to July 1, 1970.

(3) An Index-Digest is issued by the Department. All decisions, opinions and orders issued in the categories of cases described in subdivisions (i), (ii), and (iii) of subparagraph (1) of this paragraph (that is, contract appeals, land appeals, and mine health and safety appeals), are covered in the Index-Digest; in addition, the Index-Digest covers the more important decisions, opinions and orders in the remaining categories of cases described in subdivision (iv) of subparagraph (1) of this paragraph and in subdivisions (i), (ii), (iii), and (iv) of subparagraph (2) of this paragraph, and the more important opinions of law issued by the Office of the Solicitor. The Index-Digest is available for use by the public in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, in the Docket and Records Section, Office of the Solicitor, Interior Building, Washington, D.C. 20240, and in the offices of the Regional Solicitors and Field Solicitors. Selected decisions, opinions and orders are published in a series entitled "Decisions of the United States Department of the Interior" (cited as I.D.), and copies may be obtained by subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(4) Copies of final opinions and orders issued by Regional Solicitors on tort claims and irrigation claims, and copies of final opinions and orders on appeals in Indian probate proceedings issued by Regional Solicitors prior to July 1, 1970, are available for inspection and copying in their respective offices. Copies of final opinions and orders issued by Field Solicitors on tort claims are available for inspection and copying in their respective offices.

(b) (1) Copies of final decisions and orders issued prior to July 1, 1970, on appeals to the Director, Bureau of Land Management, and by hearing examiners of the Bureau of Land Management, in proceedings relating to lands and interests in land are available for inspection and copying in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, and in the offices of the Departmental hearing examiners.

(2) Copies of final decisions, opinions and orders issued on and after July 1, 1970, by departmental hearing examiners in all proceedings before them are available for inspection and copying in their respective offices and in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

(3) Copies of final decisions, opinions and orders issued by hearing examiners in Indian probate proceedings are available for inspection and copying in their respective offices.

* * * * *

2. The appendix to Part 2, Subtitle A, Title 43, is amended to read as follows:

APPENDIX

OFFICE OF HEARINGS AND APPEALS—FIELD OFFICES

Departmental Hearing Examiners:

(1) Sacramento, Calif., Federal Building.
(2) Salt Lake City, Utah, Federal Building.

Hearing Examiners (Indian Probate):

(1) Phoenix, Ariz., Arizona Title Annex Building.
(2) Sacramento, Calif., Federal Building.
(3) Denver, Colo., Denver Federal Center.
(4) Minneapolis, Minn., Buzza Building.
(5) Billings, Mont., Federal Building and Courthouse.
(6) Gallup, N. Mex., V.E.M. Building.
(7) Tulsa, Okla., U.S. Post Office and Federal Office Building.
(8) Portland, Oreg., Federal Building.

OFFICE OF THE SOLICITOR—FIELD OFFICES

Anchorage Region

Regional Solicitor; Anchorage, Alaska, Federal Building.
Field Solicitor; Juneau, Alaska, U.S. Post Office and Courthouse.

Denver Region

Regional Solicitor; Denver, Colo., Denver Federal Center.
Field Solicitor; Aberdeen, S. Dak., Federal Building.
Field Solicitor; Albuquerque, N. Mex., Federal Building and Courthouse.
Field Solicitor; Billings, Mont., Federal Building and Courthouse.
Field Solicitor; Cheyenne, Wyo., Joseph C. O'Mahoney Federal Center.
Field Solicitor; Twin Cities, Minn., Federal Building, Fort Snelling.
Field Solicitor; Santa Fe, N. Mex., U.S. Courthouse.

Los Angeles Region

Regional Solicitor; Los Angeles, Calif., 7759 Federal Building.
Field Solicitor; Phoenix, Ariz., Arizona Title Annex Building.
Field Solicitor; Reno, Nev., 2004 Federal Building—U.S. Courthouse.

Philadelphia Region

Regional Solicitor; Philadelphia, Pa., Second Bank Building.

Portland Region

Reigonal Solicitor; Portland, Oreg., Federal Building.
Field Solicitor; Boise, Idaho, Federal Building—U.S. Courthouse.
Field Solicitor; Ephrata, Wash., Reclamation Building.

Sacramento Region

Regional Solicitor; Sacramento, Calif., Federal Building.
Field Solicitor; San Francisco, Calif., 450 Golden Gate Avenue.
Attorney-Advisor; Palm Springs, Calif., 587 South Palm Canyon Drive.

Salt Lake City Region

Regional Solicitor; Salt Lake City, Utah, Federal Building.

Tulsa Region

Regional Solicitor; Tulsa, Okla., Federal Building, U.S. Post Office and Courthouse.
Field Solicitor; Amarillo, Tex., 1106 Herring Plaza.
Field Solicitor; Anadarko, Okla., 121 Northwest Second Street.
Trial Attorney; Durant, Okla., U.S. Post Office and Courthouse.
Field Solicitor; Muskogee, Okla., Federal Building.
Field Solicitor; Pawhuska, Okla., c/o Osage Indian Agency.
Field Solicitor; Elberton, Ga., First National Bank Building.

WALTER J. HICKEL,
Secretary of the Interior.

SEPTEMBER 15, 1970.

[F.R. Doc. 70-12549; Filed, Sept. 21, 1970; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

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

[Regs. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950——)

Continuation of Benefit Payments Pending Determination of Capacity To Manage Benefits—Hearing and Appeal Rights

Regulations No. 4 of the Social Security Administration, as amended (20 CFR 404.1 et seq.), are further amended as follows:

Subpart J—Procedures, Payment of Benefits, and Representation of Parties

1. Section 404.905 of Subpart J is amended by adding paragraph (n) to read as follows:

§ 404.905 Administrative actions that are initial determinations.

* * * * *

(n) *Need for representative payment.* The Administration shall make findings, setting forth the pertinent facts and conclusions and an initial determination as to whether under section 205(j) of the Act, representative payment shall serve the interests of an individual by reason of his incapacity to manage his benefit payments; except that findings as to incapacity with respect to an individual under age 18 or with respect to an individual adjudged legally incompetent shall not be considered an initial determination.

Subpart Q—Representative Payee

2. Section 404.1601 of Subpart Q is revised to read as follows:

§ 404.1601 Payments on behalf of an individual.

When it appears to the Administration that the interest of a beneficiary entitled to a payment under title II of the Act would be served thereby, certification of payment may be made by the Administration, regardless of the legal competency or incompetency of the beneficiary entitled thereto, either for direct payment to such beneficiary, or for his use and benefit to a relative or some other person as the "representative payee" of the beneficiary. When it appears that an individual who is receiving benefit payments may be incapable of managing such payments in his own interest, the Administration shall, if such individual is age 18 or over and has not been adjudged legally incompetent, continue payments to such individual pending a determination as to his capacity to manage benefit payments and the selection of a representative payee.

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

3. *Effective date.* The foregoing regulations shall become effective upon publication in the FEDERAL REGISTER.

Dated: August 24, 1970.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 14, 1970.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 70-12556; Filed, Sept. 21, 1970; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Lacreek National Wildlife Refuge, S. Dak.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Lacreek National Wildlife Refuge, S. Dak., is permitted from October 3 through December 11, 1970; but only on the area designated by signs as open to hunting. This open area, comprising 310 acres is delineated on a map available at the refuge headquarters, Martin, S. Dak. 57551, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 11, 1970.

JOHN R. LANGENBACH,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 15, 1970.

[F.R. Doc. 70-12555; Filed, Sept. 21, 1970; 8:48 a.m.]

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 330, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

Order, as amended. The provisions in paragraph (b)(1)(i), and (ii) of § 908.630 (Valencia Orange Reg. 330, 35 F.R. 14255) are hereby amended to read as follows:

§ 908.630 Valencia Orange Regulation 330.

* * * * *

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

(i) District 1: 368,000 cartons;

(ii) District 2: 432,000 cartons.

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

Dated: September 17, 1970.

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

[F.R. Doc. 70-12532; Filed, Sept. 21, 1970; 8:46 a.m.]

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

[Milk Order Nos. 6, 12, 13; Dockets Nos. AO–356–A6, 347–A10, AO–286–A18]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Order Amending Orders

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 the 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 upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in §§ 1006.77, 1012.77, and 1013.86 of the aforesaid orders.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than October 1, 1970. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued July 23, 1970, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued August 25, 1970. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective October 1, 1970, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

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

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

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

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

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Upper Florida, Tampa Bay and Southeastern Florida marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, and the entire order is reprinted as follows:

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1006 issued under Sec. 1—19, 48 Stat. 31, as amended; 7 U.S.C. 601—674.

DEFINITIONS

§ 1006.1 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.).

§ 1006.2 Secretary.

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

§ 1006.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1006.4 Person.

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

§ 1006.5 Cooperative association.

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

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

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

§ 1006.6 Upper Florida marketing area.

The "Upper Florida marketing area", hereinafter called the "marketing area", means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Alachua.	Lafayette.
Baker.	Lake.
Bay.	Leon.
Bradford.	Levy.
Brevard.	Liberty.
Calhoun.	Madison.
Citrus.	Marion.
Clay.	Nassau.
Columbia.	Orange.
Dixie.	Osceola.
Duval.	Putnam.
Flagler.	St. Johns.
Franklin.	Seminole.
Gadsden.	Sumter.
Gilchrist.	Suwannee.
Gulf.	Taylor.
Hamilton.	Union.
Holmes.	Volusia.
Jackson.	Wakulla.
Jefferson.	Washington.

§ 1006.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1006.8 Distributing plant.

"Distributing plant" means a plant:

(a) That is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month in the marketing area on routes; or

(b) That processes or packages filled milk and from which filled milk is disposed of during the month in the marketing area on routes.

§ 1006.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority or filled milk is shipped during the month to a pool plant.

§ 1006.10 Pool plant.

"Pool plant" means a plant specified in paragraph (a) or (b) of this section that is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of on routes except as filled milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes except as filled milk.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

§ 1006.11 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1006.10 and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area on routes and to pool plants qualified on the basis of route distribution in this marketing area than in the marketing area regulated pursuant to such other order.

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

(d) "Partially regulated distributing plant" means a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(e) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

§ 1006.12 Route.

"Route" means a delivery (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I pursuant to § 1006.41(a)(1).

§ 1006.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

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

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; and

(f) A producer-handler.

§ 1006.14 Producer-handler.

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

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1006.15 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1006.16 from a pool plant to a nonpool plant.

§ 1006.16 Producer milk.

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

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1006.13(d): *Provided,* That if the milk received at a pool plant from a handler pursuant to § 1006.13(d) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1006.13(d) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the plant to which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the plant to which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from member-producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1006.17 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

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

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

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1006.33.

§ 1006.18 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1006.19 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1006.20 Designation.

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

§ 1006.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1006.22 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 30 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 § 1006.77 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 1006.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made either reports pursuant to §§ 1006.30 through 1006.32 or payments pursuant to §§ 1006.70, 1006.74, 1006.76, 1006.77, and 1006.78;

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

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, and by such investigation as the market administrator deems necessary.

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

(j) Publicly announce on or before:

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month;

(2) The 5th day of each month the Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month; and

(3) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1006.45(a)(9) and the corresponding step of § 1006.45(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;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1006.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such reports; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which 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

§ 1006.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler (except a handler pursuant to § 1006.13 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received or at which filled milk is processed or packaged, reporting in detail and on forms prescribed by the market administrator;

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

(1) Producer milk (or, in the case of handlers pursuant to § 1006.13(b), Grade A milk received from dairy farmers);

(2) Fluid milk products received from pool plants of other handlers;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1006.16; and

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

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes, showing separately the in-area disposition of filled milk; and

(2) For a handler pursuant to § 1006.13(b), the amount of reconstituted skim milk in fluid milk products disposed of in the marketing area on routes; and

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

§ 1006.31 Producer payroll reports.

(a) Each handler pursuant to § 1006.13 (a), (c), and (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

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

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

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

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1006.62(b) shall report to the market administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

§ 1006.32 Other reports.

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

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler pursuant to § 1006.13 (d) shall report to the market administrator, in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1006.33 Records and facilities.

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

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

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

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

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

§ 1006.34 Retention of records.

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

Classification of Milk

§ 1006.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1006.30 shall be classified each month pursuant to the provisions of §§ 1006.41 through 1006.45: *Provided,* That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1006.41 Classes of utilization.

Subject to the conditions set forth in § 1006.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in para-

graph (b) of this section;

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

Not accounted for as Class II milk.

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

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil);

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

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

(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1006.16) but not in excess of:

(i) 2 percent of producer milk (except that received from a handler pursuant to § 1006.13 (d));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1006.13(d): *Provided,* That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(iii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

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

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1006.42(b)(2).

§ 1006.42 Shrinkage.

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

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1006.41(b)(6);

(2) Other source milk exclusive of that specified in § 1006.41(b)(6).

§ 1006.43 Transfers.

Skim milk or butterfat shall be classified:

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1006.45(a)(9) and the corresponding step of § 1006.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1006.45(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1006.45(a)(8) or (9) and the corresponding steps of § 1006.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

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

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1006.30;

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

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1006.45(a)(8) and the corresponding step of § 1006.45(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

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

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

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

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

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

(3) If 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 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 allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1006.41.

(d) As Class I milk if transferred or diverted in the form of a fluid milk product, from a pool plant to an exempt distributing plant.

(e) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1006.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1006.30 and from such reports, shall compute for each handler the total pounds of skim milk and butterfat in each class: *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 a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1006.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1006.44, the market administrator shall determine the classification of producer milk for each handler for each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1006.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3)(vi) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1006.41(b)(5) plus 2 percent of the remainder of such receipts; and

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

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

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

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

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products 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 an exempt distributing plant;

(v) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

(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;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided,* That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (3)(v) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(vi) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (3)(v), and (5)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(vi) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1006.22(l) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1006.43(a); and

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

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

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 1006.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants

in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) at the rate of the Chicago butter price times 0.12 and rounded to the nearest cent. For the purpose of computing the Class I prices from the effective date hereof, the basic formula price shall be not less than $4.33.

§ 1006.51 Class prices.

Subject to the provisions of §§ 1006.52 and 1006.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.65.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

§ 1006.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1006.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II price, 0.115 times the Chicago butter price for the month.

§ 1006.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant south of Dixie, Gilchrist, Alachua, Putnam or St. Johns Counties, Fla., shall be increased 10 cents and at a plant outside the State of Florida and 70 miles or more from the nearer of the City Halls in Jacksonville and Tallahassee, Fla., shall be reduced 10 cents and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 85 miles from the nearer of the Jacksonville and Tallahassee City Halls.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Jacksonville, Orlando or Tallahassee, Fla.

§ 1006.54 Use of equivalent prices.

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

APPLICATION OF PRICES

§ 1006.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1006.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1006.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1006.45(a)(11) and the corresponding step of § 1006.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(6) and the corresponding step of § 1006.45(b);

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1006.45(a)(6) and the corresponding step of § 1006.45(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.45 (a)(4) and the corresponding step of § 1006.45(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(4) and the corresponding step of § 1006.45(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(3) and the corresponding step of § 1006.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1006.45 (a)(3) (v) and (vi) and the corresponding step of § 1006.45(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1006.45(a)(8) and the corresponding step of § 1006.45(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1006.61 Computation of uniform price.

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

(a) Combine into one total the values computed pursuant to § 1006.60 for all handlers who filed the reports pursuant to § 1006.30 for the month, except those in default of payments required pursuant to § 1006.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1006.71 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the minus location differentials computed pursuant to § 1006.72(a);

(d) Subtract an amount equal to the total value of the plus location differential computed pursuant to § 1006.72(a);

(e) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1006.60(f); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1006.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1006.30 and 1006.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1006.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant

shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1006.60(f) and any credits computed pursuant to § 1006.74(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1006.30 a similar report for each 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 § 1006.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

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

(ii) 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 in the marketing area on routes;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products 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, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1006.63 Obligation of handler operating an other order plant.

Each handler who operates an other order plant that is regulated under an order providing 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:

(a) 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 marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each marketing area; and

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

PAYMENTS

§ 1006.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month (not less than $5 for the first month this provision is in effect) per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer;

(2) On or before the 5th day of the following month to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month (not less than $5 for the first month this provision is in effect) per hundredweight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1006.71, 1006.72, and 1006.76, subject to the following:

(i) Minus payments made pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1006.75 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 members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the second day prior to the date on which payments are due individual producers, shall 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 not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of

the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1006.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1006.45 by the respective butterfat differential for each class.

§ 1006.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced or increased according to the location of the pool plant at the rates set forth in § 1006.53; and

(b) For purposes of computations pursuant to §§ 1006.74 and 1006.75, the uniform price shall be adjusted at the rates set forth in § 1006.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1006.73 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 §§ 1006.62, 1006.63, and 1006.74 and out of which he shall make all payments from such fund pursuant to § 1006.75: Provided, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1006.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1006.60 for such handler; and

(b) The sum of:

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

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) of other source milk for which a value is computed pursuant to § 1006.60(e).

§ 1006.75 Payments from the producer-settlement fund.

On or before the 13th 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 § 1006.74(b) exceeds the amount computed pursuant to § 1006.74(a). If, at such time, 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 funds are available.

§ 1006.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 4 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1006.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

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

(b) Any other source milk allocated to Class I pursuant to § 1006.45(a) (3) and (8) and the corresponding step of § 1006.45(b), except such other source milk excluded from pool obligations pursuant to § 1006.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1006.62(b)(2)(ii).

§ 1006.78 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1006.79 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1006.74, 1006.76, 1006.77, and 1006.78 shall be increased one-half of 1 percent for each month or portion thereof that such obligation is overdue.

§ 1006.80 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 skim milk and butterfat involved in such obligation, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to 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 representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; 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 skim milk and butterfat involved in the claims were 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

§ 1006.90 Effective time.

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

§ 1006.91 Suspension or termination.

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

§ 1006.92 Continuing power and duty of the market administrator.

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

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 1006.93 Liquidation after suspension or termination.

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

MISCELLANEOUS PROVISIONS

§ 1006.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1006.101 Agents.

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

PART 1012—MILK IN TAMPA BAY MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1012 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1012.1 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.).

§ 1012.2 Secretary.

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

§ 1012.3 Department.

"Department" means the United States Department of Agriculture.

§ 1012.4 Person.

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

§ 1012.5 Cooperative association.

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

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

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

§ 1012.6 Tampa Bay marketing area.

The "Tampa Bay marketing area", hereinafter called the "marketing area", means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all waterfront facilities connected therewith and all territory wholly or partly therein occupied by Government (Municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Charlotte.	Lee.
Collier.	Manatee.
De Soto.	Pasco.
Hardee.	Pinellas.
Hernando.	Polk.
Highlands.	Sarasota.
Hillsborough.	

§ 1012.7 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk, and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1012.8 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month in the marketing area on routes.

§ 1012.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A or filled milk is shipped during the month to a pool plant.

§ 1012.10 Pool plant.

"Pool plant" means a plant (except an other order plant or the plant of a producer-handler) specified in paragraph (a) or (b) of this section:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of on routes except as filled milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes except as filled milk.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

§ 1012.11 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1012.10 and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area on routes and to pool plants qualified on the basis of route distribution in this marketing area than in the marketing area regulated pursuant to such other order.

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

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products in consumer-type packages or dispenser units are distributed in the marketing area on routes during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1012.12 Route.

"Route" means a delivery either direct or through any distribution facility other than a plant (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I pursuant to § 1012.41(a)(1).

§ 1012.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

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

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; and

(f) A producer-handler.

§ 1012.14 Producer-handler.

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

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Dispose of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1012.15 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1012.16 from a pool plant to a nonpool plant.

§ 1012.16 Producer milk.

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

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1012.13(d): *Provided,* That if the milk received at a pool plant from a handler pursuant to § 1012.13(d) is purchased on a basis other than farm weights, the amount by which the total

farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1012.13(d) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the pool plant from which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the pool plant from which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1012.17 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

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

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

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1012.33.

§ 1012.18 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1012.19 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1012.20 Designation.

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

§ 1012.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1012.22 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 30 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 § 1012.77 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1012.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made either reports pursuant to §§ 1012.30 through 1012.32 or payments pursuant to §§ 1012.70, 1012.74, 1012.76, 1012.77, and 1012.78;

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

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends, and by such investigation as the market administrator deems necessary;

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

(j) Publicly announce on or before:

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month;

(2) The 5th day of each month the Class II price and the Class II butterfat differential, both for the preceding month; and

(3) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1012.45(a)(9) and the corresponding step of § 1012.45(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;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a

handler who has received skim milk and butterfat in the form of fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1012.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such reports; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which 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

§ 1012.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler (except a handler pursuant to § 1012.13 (e) or (f)) shall report to the market administrator for such month with respect to each plant at which milk is received or at which filled milk is processed or packaged, reporting in detail and on forms prescribed by the market administrator:

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

(1) Producer milk (including such handler's own production) or, in the case of handlers pursuant to § 1012.13 (b), milk received from dairy farmers;

(2) Fluid milk products received from pool plants of other handlers;

(3) Other source milk;

(4) Milk diverted to nonpool plants pursuant to § 1012.16; and

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

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement showing:

(1) The respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area on routes, showing separately the in-area disposition of filled milk; and

(2) For a handler pursuant to § 1012.13(b), the amount of reconstituted skim milk in fluid milk products disposed of in the marketing area on routes; and

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

§ 1012.31 Producer payroll reports.

(a) Each handler pursuant to § 1012.13 (a), (c), and (d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

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

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

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

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1012.62(b) shall report to the market administrator on or before the 20th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

§ 1012.32 Other reports.

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

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(c) Each handler pursuant to § 1012.13(d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1012.33 Records and facilities.

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

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

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

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

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

§ 1012.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-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 OF MILK

§ 1012.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1012.30 shall be classified each month pursuant to the provisions of §§ 1012.41 through 1012.45: *Provided,* That such skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1012.41 Classes of utilization.

Subject to the conditions set forth in § 1012.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) of this section;

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

(3) Not accounted for as Class II milk.

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

(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil).

(2) Skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;

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

(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1012.16) but not in excess of:

(i) Two percent of producer milk (including that received from a handler pursuant to § 1012.13(d)) if the handler receiving such milk files notice with the

market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;

(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;

(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) Skim milk and butterfat in shrinkage of other source milk allocated pursuant to § 1012.42(b)(2).

§ 1012.42 Shrinkage.

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

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1012.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1012.41(b)(6).

§ 1012.43 Transfers.

Skim milk or butterfat shall be classified:

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1012.45(a)(9) and the corresponding step of § 1012.45(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1012.45(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1012.45(a)(8) or (9) and the corresponding steps of § 1012.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant, nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II in his report submitted pursuant to § 1012.30;

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

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1012.45(a)(8) and the corresponding step of § 1012.45(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular sources of supply for such nonpool plant;

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

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

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

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

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

(3) If 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 allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1012.41.

(d) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1012.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1012.30 and from such reports, shall compute for each handler the total pounds of skim milk and butterfat in each class: *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 a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1012.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1012.44, the market administrator shall determine the classification of

producer milk for each handler for each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1012.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III pursuant to § 1012.41(c)(4) plus 2 percent of the remainder of such receipts; and

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

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

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

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

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

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

(iv) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

(v) 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;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided,* That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

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

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (3)(iv) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(v) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (4) of this paragraph;

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (3)(iv), and (5)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3)(v) and (5)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1012.22(l) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(10) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1012.43(a); and

(11) If the pounds of skim milk remaining 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 amounts so subtracted shall be known as "overage";

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

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section.

Minimum Prices

§ 1012.50 Basic formula price.

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

§ 1012.51 Class prices.

Subject to the provisions of §§ 1012.52 and 1012.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.75.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

§ 1012.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1012.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents;

(b) Class II price, 0.115 times the Chicago butter price for the month.

§ 1012.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant north of Pinellas, Hillsborough, Polk, or Osceola Counties, Fla., and 70 miles or more from the City Hall in Tampa, Fla., shall be reduced 10 cents and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 85 miles from the Tampa City Hall.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the Tampa City Hall.

§ 1012.54 Use of equivalent prices.

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

APPLICATION OF PRICES

§ 1012.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler pursuant to § 1012.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1012.45(c) by the applicable class price;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1012.45(a)(12) and the corresponding step of § 1012.45 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(6) and the corresponding step of § 1012.45(b).

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1012.45(a)(6) and the corresponding step of § 1012.45(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(4) and the corresponding step of § 1012.45 (b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(4) and the corresponding step of § 1012.45(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(3) and the corresponding step of § 1012.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1012.45(a)(3) (iv) and (v) and the corresponding step of § 1012.45(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1012.45(a)(8) and the corresponding step of § 1012.45(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1012.61 Computation of uniform price.

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

(a) Combine into one total the values computed pursuant to § 1012.60 for all handlers who filed the reports pursuant to § 1012.30 for the month, except those in default of payments required pursuant to § 1012.74 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1012.71 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1012.72;

(d) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1012.60 (f); and

(f) Subtract not less than four cents nor more than five cents per hundredweight.

§ 1012.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1012.30 and 1012.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1012.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1012.60(f) and any credits computed pursuant to § 1012.74(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1012.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipment to such plant during the month equivalent to the requirements of § 1012.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at

such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) 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 in the marketing area on routes;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products 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, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1012.63 Obligation of handler operating an other order plant.

Each handler who operates an other order plant that is regulated under an order providing 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:

(a) 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 marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each marketing area; and

(b) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (a) of this section to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

PAYMENTS

§ 1012.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month (not less than $4.00 for the first month this provision is in effect) per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer;

(2) On or before the 5th day of the following month to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month (not less than $4.00 for the first month this provision is in effect) per hundredweight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1012.71, 1012.72 and 1012.76, subject to the following:

(i) Minus payments made pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1012.75 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 members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the second day prior to the date on which payments are due individual producers, shall 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 not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1012.71 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk, is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1012.45 by the respective butterfat differential for each class.

§ 1012.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1012.53; and

(b) For purposes of computations pursuant to §§ 1012.74 and 1012.75, the uniform price shall be adjusted at the rates set forth in § 1012.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1012.73 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 §§ 1012.62, 1012.63, and 1012.74 and out of which he shall make all payments from such fund pursuant

to § 1012.75: *Provided,* That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1012.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation pursuant to § 1012.60 for such handler; and

(b) The sum of:

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

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) of other source milk for which a value is computed pursuant to § 1012.60(e).

§ 1012.75 Payments from the producer-settlement fund.

On or before the 13th 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 § 1012.74(b) exceeds the amount computed pursuant to § 1012.74(a). If, at such time, 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 funds are available.

§ 1012.76 Marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 4 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of products for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1012.77 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

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

(b) Any other source milk allocated to Class I pursuant to § 1012.45(a) (3) and (8) and the corresponding step of § 1012.45(b), except such other source milk excluded from pool obligations pursuant to § 1012.60(f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1012.62(b)(2)(ii).

§ 1012.78 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in monies due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1012.79 Interest payments.

The unpaid obligation of a handler pursuant to §§ 1012.74, 1012.76, 1012.77, and 1012.78 shall be increased one-half of one percent for each month or portion thereof that such obligation is overdue.

§ 1012.80 Termination of obligations.

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

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the skim milk and butterfat involved in such obligation, unless within such two-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to 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 representative all books and records required by this part to be made available, the market administrator may, within the two-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 two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; 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 two 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

§ 1012.90 Effective time.

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

§ 1012.91 Suspension or termination.

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

§ 1012.92 Continuing power and duty of the market administrator.

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

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute such assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 1012.93 Liquidation after suspension or termination.

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

MISCELLANEOUS PROVISIONS

§ 1012.100 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 1012.101 Agents.

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

PART 1013—MILK IN SOUTHEASTERN FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1013 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

DEFINITIONS

§ 1013.1 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.).

§ 1013.2 Secretary.

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

§ 1013.3 Department.

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

§ 1013.4 Person.

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

§ 1013.5 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the act of Congress of February 19, 1922, as amended, known as the "Capper-Volstead Act"; (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and (c) to have its entire activities under the control of its members.

§ 1013.6 Southeastern Florida marketing area.

The "Southeastern Florida marketing area," hereinafter called the "marketing area," means all the territory geographically within the boundaries of the following counties, all in the State of Florida, including all Government reservations and incorporated municipalities within this territory:

Broward.	Martin.
Dade.	Monroe.
Glades.	Okeechobee.
Hendry.	Palm Beach.
Indian River.	St. Lucie.

§ 1013.7 Fulid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, acidophilus milk, flavored milk and flavored milk drinks (including eggnog and milkshake mix), filled milk, concentrated milk, sweet cream, and mixtures of sweet cream and milk or skim milk.

§ 1013.8 Distributing plant.

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

§ 1013.9 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority is shipped during the month to a pool plant.

§ 1013.10 Pool plant.

"Pool plant" means a plant (except an other order plant or the plant of a producer-handler) that is specified in paragraph (a) or (b) of this section and which is not a facility described in paragraph (c) of this section:

(a) A distributing plant from which not less than 50 percent of the total Grade A fluid milk products, except filled milk, received at the plant during the month is disposed of on routes except as filled milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes except as filled milk.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section.

(c) Pool plant as defined in this section shall not be deemed to include any building, premises, or facilities, the primary function of which is to hold or store bottled milk or milk products (including filled milk) in finished form, nor shall it include any part of a plant in which the operations are entirely separated (by wall or other partition) from the handling of producer milk.

§ 1013.11 Nonpool plant.

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

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

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

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which skim milk and butterfat in the form of products designated as Class I milk pursuant to § 1013.41(a) are moved to a pool plant during the month.

§ 1013.12 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor, or a sale from or through a plant store, or by vending machine) of any product in a form designated as Class I milk pursuant to § 1013.41(a), but does not include delivery to a milk or filled milk receiving or processing plant.

§ 1013.13 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

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

(c) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(f) A producer-handler.

§ 1013.14 Producer-handler.

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

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and is disposed of during the month in the marketing area on routes pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1013.15 Producer.

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk (as described in § 1013.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the U.S. Government located in the marketing area for fluid consumption).

§ 1013.16 Producer milk.

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

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1013.13(d): *Provided*, That if the milk received at a pool plant from a handler pursuant to § 1013.13(d) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1013.13(d) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is neither an other order plant nor a producer-handler plant for the account of the pool plant operator or a cooperative association, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the pool plant from which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the pool plant from which diverted;

(2) If diverted from the pool plant of another handler for the account of a cooperative association, the aggregate quantity of milk of member producers of the cooperative association so diverted that exceeds 25 percent of the milk physically received from such producers at pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) If diverted by a handler operating a pool plant for his account, the aggregate quantity of producer milk so diverted that exceeds 25 percent of the aggregate quantity of milk physically received from producers at such plant during the month shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(4) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraphs (2) and (3) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1013.17 Other source milk.

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

(a) Fluid milk products from any source except:

(1) Producer milk;

(2) Fluid milk products from pool plants; and

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

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

(c) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for pursuant to § 1013.32.

§ 1013.18 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported for the month by the Department.

§ 1013.19 Cream.

"Cream" means the product obtained by the separation of skim milk from whole milk such that the butterfat content of the remaining product exceeds 10 percent, and mixtures of such products with milk and skim milk such that the average butterfat content exceeds 10 percent.

§ 1013.20 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

MARKET ADMINISTRATOR

§ 1013.25 Designation.

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

§ 1013.26 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1013.27 Duties.

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

(a) Within 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 § 1013.86:

(1) The cost of his bond and the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1013.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly disclose to handlers and producers, 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 2 days after the date upon which he is required to perform such acts, has not made reports or made available records and facilities pursuant to §§ 1013.30 through 1013.32, or payments pursuant to §§ 1013.80 through 1013.86;

(g) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

(h) Verify all reports and payments of each handler, by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(i) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information which 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, and mail to each handler at his last known address, a notice of each of the following:

(1) The 5th day of each month the Class I price and Class I butterfat differential, both for the current month, and the Class II and Class III prices and butterfat differentials, for the preceding month; and

(2) The 11th day of each month the uniform price and the producer butterfat differential, both for the preceding month;

(k) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1013.46(a)(10) and the corresponding step of § 1013.46(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;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received skim milk and butterfat in the form of milk products designated in § 1013.41(a) from an other order plant, the classification to which such receipts are allocated pursuant to § 1013.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped skim milk and butterfat in the form of milk products designated as Class I milk pursuant to § 1013.41(a) to an other order plant, the classification to which such skim milk and butterfat was 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

§ 1013.30 Report of sources and utilization.

On or before the 7th day after the end of each month, each handler, except a handler pursuant to § 1013.13 (e) or (f), shall report to the market administrator for such month, and for each accounting period in each month, with respect to each plant at which milk is received or at which filled milk is processed or packaged in detail and on forms prescribed by the market administrator, as follows:

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

(1) Producer milk (or, in the case of handlers pursuant to § 1013.13(b) Grade

A milk received from dairy farmers);
(2) Fluid milk products received from pool plants;
(3) Other source milk;
(4) Milk diverted to nonpool plants pursuant to § 1013.16; and
(5) Inventories of fluid milk products at the beginning and end of the month or accounting period;
(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including a separate statement showing:
(1) The respective amounts of skim milk and butterfat disposed of as Class I milk on routes entirely outside the marketing area, showing separately the in-area and outside area route disposition of filled milk; and
(2) For a handler pursuant to § 1013.13 (b), the amount of reconstituted skim milk in fluid milk products disposed of in the marketing area on routes;
(c) Such other information with respect to receipts and utilization as the market administrator may request; and
(d) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1013.46 (d), shall submit a summary report of the same information for the entire month.

§ 1013.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.
(b) Each handler pursuant to § 1013.13 (a), (c), or (d) shall report to the market administrator in detail and on forms prescribed by the market administrator:
(1) On or before the 20th day after the end of the month, his producer payroll for that month, which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the days for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of the handler's payment with respect to such milk to the producer or cooperative association, together with the price paid and the amount and nature of any deductions;
(2) On or before the first day other source milk as defined pursuant to § 1013.17(a) is received at his pool plants, his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and
(3) Such other information with respect to his sources and utilization of butterfat and skim milk and at such times as the market administrator shall prescribe.
(c) Each handler making payments pursuant to § 1013.62(a) shall report the information required pursuant to paragraph (b) of this section. In such reports receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk, and payments to dairy farmers delivering such milk shall be reported in lieu of payments to producers.
(d) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.
(e) Each handler pursuant to § 1013.13(d) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of the month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month.

§ 1013.32 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 and such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to requirements of this part, including, but not limited to:
(a) The receipts and utilization of all skim milk and butterfat handled in any form;
(b) The weights and tests for butterfat and other content of all milk and milk products (including filled milk) handled;
(c) The pounds of skim milk and butterfat contained in or represented by all items or products on hand at the beginning and end of each month; and
(d) Payments to producers and cooperative associations including any deductions, and the disbursement of money so deducted.

§ 1013.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-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 OF MILK

§ 1013.40 Skim milk and butterfat to be classified.

The skim milk and butterfat required to be reported pursuant to § 1013.30(a) shall be classified pursuant to the provisions of §§ 1013.41 through 1013.46.

§ 1013.41 Classes of utilization.

Subject to the conditions set forth in §§ 1013.42 through 1013.46, the classes of utilization shall be as follows:
(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:
(1) Disposed of in the form of a fluid milk product except as provided in paragraphs (b) and (c) of this section;
(2) In packaged fluid milk products in inventory at the end of the month; and
(3) Not accounted for as Class II or Class III milk.
(b) *Class II milk.* Class II milk shall be:
(1) Skim milk and butterfat used to produce frozen desserts (e.g., ice cream, ice cream mix), sour cream, sour cream products (e.g., dips), yogurt, aerated cream and aerated cream products, butter, cheese (including cottage cheese), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, and a product which contains 6 percent or more nonmilk fat (or oil);
(2) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products disposed of by a handler for livestock feed;
(3) Except as provided in paragraph (c) of this section, skim milk and butterfat in fluid milk products dumped by a handler after notification to, and opportunity for verification by, the market administrator;
(4) Skim milk and butterfat in inventory of bulk fluid milk products at the end of the month;
(5) Skim milk represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;
(6) Skim milk and butterfat, respectively, in shrinkage at each pool plant (except in milk diverted to a nonpool plant pursuant to § 1013.16) but not in excess of:
(i) Two percent of producer milk (including that received from a handler pursuant to § 1013.13(d)) if the handler receiving such milk files notice with the market administrator that he is purchasing it on the basis of farm weights. Otherwise, the applicable percentage pursuant to this subdivision shall be 1.5 percent;
(ii) Plus 1.5 percent of bulk fluid milk products received from other pool plants;
(iii) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;
(iv) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and
(v) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

(7) *Skim milk and butterfat in shrinkage of other source milk allocated pursuant to* § 1013.42(b)(2).

(c) *Class III milk.* Class III milk shall be all milk, the skim milk portion of which is:

(1) Disposed of for fertilizer or livestock feed, or

(2) Dumped after such prior notification as the market administrator may require.

§ 1013.42 Shrinkage.

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

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

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1013.41(b)(6).

(2) Other source milk exclusive of that specified in § 1013.41(b)(6).

§ 1013.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that such skim milk and 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.

§ 1013.44 Transfers.

Skim milk or butterfat shall be classified:

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

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1013.46(a)(10) and the corresponding step of § 1013.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1013.46(a)(3) and (4), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1013.46(a)(9) or (10) and the corresponding steps of § 1013.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 500 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach.

(c) As Class I milk, if transferred or diverted in bulk in the form of a fluid milk product to a nonpool plant that is neither an other order plant nor a producer-handler plant located not more than 500 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the main U.S. Post Office in West Palm Beach, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted to the market administrator pursuant to § 1013.30;

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

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

(i) Any Class I route disposition in the marketing area, then any transfers from such nonpool plant to pool plants which are assigned to Class I pursuant to § 1013.46(a)(9) and the corresponding step of § 1013.46(b), shall be assigned first to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to such receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I route disposition in the marketing area of an other order issued pursuant to the Act, then any transfers from such nonpool plant to an other order plant which are assigned to Class I pursuant to the provisions of such other order, shall be assigned first to the skim milk and butterfat in receipts of fluid milk products transferred or diverted from plants fully regulated by such order, next pro rata to such receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant;

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

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat in fluid milk products so transferred shall be classified as Class III milk to the extent available and the remainder as Class II milk.

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

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

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

(3) If 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 allocations to other classes shall be classified in a comparable classification as Class II milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1013.41.

(e) As Class I milk if transferred in the form of a fluid milk product from a pool plant to a producer-handler plant.

§ 1013.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1013.30(a) and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk,

and Class III milk at each pool plant: *Provided,* That the skim milk contained in any product utilized, produced or disposed of by the handling during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1013.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1013.45, the market administrator shall determine the classification of producer milk for each handler for each month or other accounting period described in paragraph (d) of this section as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1013.41(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (4)(iv) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class II pursuant to § 1013.41(b)(5) plus 2 percent of the remainder of such receipts; and

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

(2–a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III, the pounds of skim milk in other source milk as specified in § 1013.17(b);

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

(i) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

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

(iii) Receipts from unregulated supply plants consisting of reconstituted skim milk (including that in filled milk) and any skim milk received at the unregulated plant from producer-handlers and exempt plants defined in any order that were not subtracted pursuant to subparagraph (2–a) of this paragraph; and

(iv) 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;

(5) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in inventory of packaged fluid milk products at the beginning of the month: *Provided,* That this subparagraph shall not be applicable to a pool plant in any month immediately following a month in which such plant was not fully subject to the pooling and pricing provisions of this order;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class III and/or Class II (beginning with Class III unless otherwise specified) but not in excess of such quantity or quantities.

(i) Receipt of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraphs (2–a) and (4)(iii) of this paragraph:

(*a*) For which the handler requests such utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk, the sum of the pounds of skim milk in producer milk, in receipts of fluid milk products from pool plants of other handlers, and in receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph;

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (4)(iv) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk (and then Class I), the pounds of skim milk in inventory of fluid milk products at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

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

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2–a), (4)(iii), and (6)(i) of this paragraph;

(10) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plants, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (4)(iv) and (6)(ii) of this paragraph:

(i) In series beginning with Class III and thereafter from Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1013.27(l) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

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

(11) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products and received from pool plants of other handlers according to the classification of such products pursuant to § 1013.44(a); and

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

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

(c) Determine the weighted average butterfat content of producer milk in each class as computed pursuant to paragraphs (a) and (b) of this section; and

(d) A handler may account for the receipts, utilization and classification of milk and filled milk, at his plant, for periods within a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of every accounting period.

Minimum Prices

§ 1013.50 Basic formula price.

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

§ 1013.51 Class prices.

Subject to the provisions of §§ 1013.52 and 1013.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.95.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 15 cents.

(c) *Class III price.* The Class III price shall be computed as follows: Multiply the Chicago butter price by 1.25, add 4 cents and multiply the result by 3.5.

§ 1013.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1013.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the following rates:

(a) Class I price, 7.5 cents; and

(b) Class II and Class III prices, 0.115 times the Chicago butter price for the month.

§ 1013.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant north of, and 80 miles or more from, the U.S. Post Office in West Palm Beach, Florida, shall be reduced 13 cents and an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 90 miles from the U.S. Post Office in West Palm Beach.

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the U.S. Post Office in West Palm Beach.

§ 1013.54 Use of equivalent prices.

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

APPLICATION OF PROVISIONS

§ 1013.60 Producer-handler.

Sections 1013.50 through 1013.54, 1013.61, 1013.62, 1013.70 through 1013.74, and 1013.80 through 1013.86 shall not apply to a producer-handler.

§ 1013.61 Plants where other Federal orders may apply.

Upon determination by the Secretary pursuant to this section, any plant specified in paragraphs (a), (b), and (c) of this section shall be a nonpool plant, except that the operator of such plant shall, with respect to the total receipts and disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) Any plant meeting the requirements of a pool plant pursuant to § 1013.10(b) but not pursuant to § 1013.10(a) which, if it were not a pool plant under this part, would be fully subject to the classification and pooling provisions of another order issued pursuant to the Act;

(b) Any plant meeting the requirements of a pool plant pursuant to § 1013.10(b) but not pursuant to § 1013.10(a) at which all receipts of skim milk and butterfat during the month would be priced and pooled under the terms of another order(s) issued pursuant to the Act if such plant were not a pool plant under this order: *Provided,* That such pricing and pooling results in all skim milk and butterfat disposed of from the plant in the form of milk and skim milk during the month being Class I milk under the terms of another order(s) issued pursuant to the Act; and

(c) Any plant which does not dispose of a greater volume of Class I milk, except filled milk, on routes in the Southeastern Florida marketing area than in the marketing area regulated pursuant to such other order.

(d) Each handler operating a plant specified in paragraph (c) 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 marketing areas regulated by two or more market 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 of reconstituted skim milk assigned in subparagraph (1) of this paragraph to Class I disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price), and subtract its value at the Class II price.

§ 1013.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1013.30 and 1013.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1013.70 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plant to a pool plant or an other order plant shall be classified in the class to which allocated at the pool plant or other order plant. Class I milk transferred from such nonpool plant to pool plants and other order plants shall be valued at the uniform price of the respective order, except that reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk;

(iii) Such handler's obligation shall include any charges computed pursuant to § 1013.70(f) and any credits computed pursuant to § 1013.82(b)(2) with respect to receipts of Class I milk from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk (including that in filled milk), and milk or skim milk from producer-handlers and exempt plants defined in any order shall be at the Class II price, unless an obligation with respect to such plant is computed as specified in subdivision (iv) of this subparagraph;

(iv) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1013.30 and 1013.31(c) similar reports for each 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 § 1013.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, there will be deducted the sum of: (i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and

like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

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

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant as follows:

(i) Any Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) Receipts from a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under any order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation pursuant to any other order;

(3) Deduct from any remainder the quantity of reconstituted skim milk, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as fluid milk products 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, subtract its value at the uniform price applicable at such location, and add for the quantity of milk deducted pursuant to the subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such milk at the Class II price. For purposes of this subparagraph, the prices shall not be adjusted to less than the Class II price.

§ 1013.63 Person producing milk.

The person who produces milk shall be considered to be the person who is responsible for the milk production enterprise on a continuing basis as to management and risk.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1013.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler pursuant to § 1013.13 (a), (c), and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1013.46(c), by the applicable class price;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1013.46(a)(12) and the corresponding step of § 1013.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding accounting period and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(7) and the corresponding step of § 1013.46(b);

(c–1) For the first month that this paragraph is effective, subtract the amount by which the value at the Class II price for the current month of the skim milk and butterfat subtracted from Class II pursuant to § 1013.46(a)(7) and the corresponding step of § 1013.46(b) is less than the value for such skim milk and butterfat at the Class II price for the preceding month;

(d) Except for the first month that this paragraph is effective, add an amount determined by multiplying the difference between the Class I price for the preceding month and Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(5) and the corresponding step of § 1013.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result would be a minus amount;

(d–1) For the first month that this paragraph is effective, add the amount by which the value at the Class I price for the current month of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(5) and the corresponding step of § 1013.46(b) exceeds the value for such skim milk and butterfat at the class prices applicable to it in the preceding month;

(e) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(3) and (4) and the corresponding step of § 1013.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1013.46(a)(4) (iii) and (iv) and the corresponding step of § 1013.46(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and

(f) Add the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received (but not to be less than the Class II price), of the skim milk and butterfat subtracted from Class I pursuant to § 1013.46(a)(9) and the corresponding step of § 1013.46(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by pool handlers defined in any order issued pursuant to the Act is classified and priced as Class I milk at plant of origin and is not used as an offset on any other payment obligation pursuant to any other order.

§ 1013.71 Computation of uniform price.

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

(a) Combine into one total the values computed pursuant to § 1013.70 for all handlers who filed the reports prescribed by § 1013.30 for the month and who made the payments pursuant to 1013.82 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1013.72 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1013.73;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1013.70(e); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1013.72 Butterfat differential to producers.

The uniform price shall be increased or decreased for each one-tenth percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate (rounded to the nearest one-tenth cent) determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1013.46 by the respective butterfat differential for each class.

§ 1013.73 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1013.53; and

(b) For purposes of computations pursuant to §§ 1013.82 and 1013.83, the uniform price shall be adjusted at the rates set forth in § 1013.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1013.74 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price for producer milk computed pursuant to § 1013.71 and the butterfat differential to producers;

(c) The amount and value of his producer milk at the uniform price; and

(d) The amounts to be paid by such handler pursuant to §§ 1013.82, 1013.85, and 1013.86, and the amount due such handler pursuant to § 1013.83.

PAYMENTS

§ 1013.80 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the 20th day of each month to each producer who did not discontinue shipping milk to such handler before the 15th day of the month, an amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the fifth day of the following month to each producer who did not discontinue shipping milk to such handler before the last day of the month, an amount equal to not less than the uniform price for the preceding month less 10 percent, but not to exceed $6, multiplied by the hundredweight of milk received from such producer after the 15th and through the last day of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(3) On or before the 15th day of the following month, to each producer an amount equal to not less than the uniform price computed pursuant to § 1013.71 adjusted by the butterfat and location differentials to producers, multiplied by the total pounds of milk received from such producer, subject to the following adjustments:

(i) Less payments made to such producer pursuant to subparagraphs (1) and (2) of this paragraph;

(ii) Less marketing service deductions made pursuant to § 1013.85;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized by such producer: *Provided*, That if by the date specified, such handler has not received full payment from the market administrator pursuant to § 1013.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment and payments 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) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall on or before the second day prior to each date on which payments are due individual producers, pay the cooperative association for milk received from the producer-members of such association as determined by the market administrator during the period for which payment is made, an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the 10th day of the following month: (i) The total pounds of milk received during the month, (ii) the pounds of milk received each day, together with the butterfat content of such milk, (iii) the amount or rate and nature of any authorized deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1013.84.

§ 1013.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1013.61, 1013.62, 1013.82, and 1013.84 and out of which he shall make all payments pursuant to §§ 1013.83 and 1013.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1013.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided*, That to this amount shall be added one-half of 1 percent of any amount due the market administrator pursuant to this section for each month or portion thereof that such payment is overdue: *And provided further*, That the requirement as to date of payment pursuant to this section shall be considered to have been met if the payment is made by mail postmarked not later than the required payment date:

(a) The net pool obligation computed pursuant to § 1013.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1013.80(a)(3); and

(2) The value at the uniform price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) of other source milk for which a value is computed pursuant to § 1013.70(f).

§ 1013.83 Payments out of the producer-settlement fund.

On or before the 13th 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 § 1013.82(b) exceeds the amount computed pursuant to § 1013.82(a). If, at such time, 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 funds are available.

§ 1013.84 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a 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.

§ 1013.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk pursuant to § 1013.80, shall deduct 4 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association pursuant to paragraph (b) of this section; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the han-

dler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed for each producer.

§ 1013.86 Expense of administration.

(a) As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

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

(2) Any other source milk allocated to Class I pursuant to § 1013.46(a) (3), (4), and (9) and the corresponding steps of § 1013.46(b), except such other source milk excluded from pool obligations pursuant to § 1013.70(f); and

(3) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk:

(i) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(ii) Specified in § 1013.62(b)(2)(ii).

(b) With respect to payments pursuant to paragraph (a) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

§ 1013.87 Termination of obligations.

The provisions of this section shall apply to any obligations 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 skim milk and butterfat involved in such obligation, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The months during which the skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; 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 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

§ 1013.100 Effective time.

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

§ 1013.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this order or any amendment thereto.

§ 1013.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1013.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1013.110 Agent.

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

§ 1013.111 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: October 1, 1970.

Signed at Washington, D.C., on September 17, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-12529; Filed, Sept. 21, 1970; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

[Federal Procurement Regs., Temporary Reg. 19]

PART 1-12—LABOR

Subpart 1-12.8—Equal Opportunity in Employment

CONTRACTS AND COMPLIANCE REVIEWS

CROSS REFERENCE: For a temporary regulation relating to equal opportunity in employment, see F.R. Doc. 70-12528, General Services Administration, Notices section.

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Metropolitan Portland Intrastate Region

On June 9, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 8892) to amend Part 81 by designating the Metropolitan Portland Intrastate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on June 19, 1970. Due consideration has been given to all relevant material presented, with the result that the towns of Brownfield, Denmark, Fryeburg, Hiram, and Porter, in Oxford County, Maine, which were not in the original proposal, have been added to the region. These considerations have also resulted in the deletion of Androscoggin County in its entirety from the region.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.78, as set forth below, designating the Metropolitan Portland Intrastate Air Quality Control Region, is adopted effective on publication.

§ 81.78 Metropolitan Portland Intrastate Air Quality Control Region.

The Metropolitan Portland Intrastate Air Quality Control Region (Maine) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

COUNTIES	
Cumberland.	York.
Sagadahoc.	
TOWNS	
Brownfield.	Hiram.
Denmark.	Porter.
Fryeburg.	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: September 10, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-12459; Filed, Sept. 21, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 46]

PERISHABLE AGRICULTURAL COMMODITIES

License Fee

Notice is hereby given that the U.S. Department of Agriculture is considering a revision of § 46.6 of the regulations (other than rules of practice) (7 CFR 46.1–46.44) effective under the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531, et seq., as amended; 7 U.S.C. 499a et seq.).

Statement of considerations leading to the proposed revision. This Act is designed to prevent unfair and fraudulent practices of persons engaged in the business of marketing fresh or frozen fruits and vegetables or cherries in brine in interstate or foreign commerce. All persons engaged in business subject to the Act are required to be licensed.

The cost of administering this Act, except for the cost of legal services, is financed entirely by the annual license fees.

The Act, as amended November 4, 1969, authorizes the Secretary of Agriculture to fix the license fee at such amount, not to exceed $100, as he deems necessary to meet reasonably anticipated expenses for administering the Act. The Secretary shall give public notice of any increase to be made in the annual fee and shall allow a reasonable time prior to the effective date of such increase for interested parties to file their views relative to such increase.

The source of funds for administration of the Act has been shrinking steadily in recent years due to a decline in the number of firms operating subject to the Act. For example, the number of firms licensed under the Act declined from an all-time high of over 27,000 in 1956 to 19,460 on January 1, 1969, when the present license fee of $50 per year became effective. Since that time there has been a further decline, with 18,295 licenses currently in effect. This trend is expected to continue.

The caseload of complaints handled under the Act, however, has remained relatively stable. Even though a reduced number of employees is engaged in administration of the Act, gradually increasing costs resulted in the PACA Fund operating at a deficit of approximately $65,000 during the past fiscal year.

Because the present license fee of $50 per year is not producing sufficient revenue to meet current administrative expenses, it is proposed, in order to assure continued effective administration of the Act, to increase the annual license fee to $60, effective January 1, 1971.

All persons who desire to submit written data, views, or comments concerning the proposed increase in the fee should file the same in duplicate (with the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed revision of § 46.6 reads as follows:

§ 46.6 License fee.

The annual fee is sixty dollars ($60). The Director may require the fee be submitted in the form of a money order, bank draft, cashier's check or certified check made payable to Consumer and Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

Done at Washington, D.C., this 16th day of September 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-12530; Filed, Sept. 21, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation and Redesignation of Regions; Notice of Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Intrastate Air Quality Control Regions in the State of Pennsylvania as set forth in the following new §§ 81.104—81.105 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

In addition to the proposal to designate the new Intrastate Air Quality Control Regions, it is proposed to revise the boundaries of the presently designated Metropolitan Pittsburgh Intrastate Air Quality Control Region (§ 81.23), the proposed Allentown-Bethlehem-Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region (§ 81.55), and the designated Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region (§ 81.74), as provided for in section 107(a)(2) of the Clean Air Act, as amended.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Pennsylvania, Ohio, and New Jersey and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations and redesignations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations and redesignations. Such consultation will take place at 10 a.m., September 30, 1970, in Conference Room 392, Federal Building, 228 Walnut Street, Harrisburg, Pa.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.104 Central Pennsylvania Intrastate Air Quality Control Region.

The Central Pennsylvania Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Bedford County.	Lycoming County.
Blair County.	Mifflin County.
Cambria County.	Montour County.
Centre County.	Northumberland County.
Clinton County.	Snyder County.
Columbia County.	Somerset County.
Fulton County.	Union County.
Huntingdon County.	
Juniata County.	

§ 81.105 South Central Pennsylvania Intrastate Air Quality Control Region.

The South Central Pennsylvania Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Adams County.	Lancaster County.
Cumberland County.	Lebanon County.
Dauphin County.	Perry County.
Franklin County.	York County.

§ 81.23 Metropolitan Pittsburgh Intrastate Air Quality Control Region.

The Metropolitan Pittsburgh Intrastate Air Quality Control Region (Pennsylvania) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Allegheny County.	Lawrence County.
Armstrong County.	Washington County.
Beaver County.	Westmoreland County.
Butler County.	

It is now proposed to: (1) Change the name of the Metropolitan Pittsburgh Intrastate Air Quality Control Region to the Southwest Pennsylvania Intrastate Air Quality Control Region; (2) add Greene, Fayette, and Indiana Counties, in the State of Pennsylvania; and (3) delete Lawrence County, in the State of Pennsylvania, from the Region.

§ 81.55 Allentown - Bethlehem - Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region.

The Allentown - Bethlehem - Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region has been proposed as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Lehigh County.	Northampton County.

In the State of New Jersey:

Hunterdon County.	Warren County.
Sussex County.	

It is now proposed to: (1) Change the name of the Allentown-Bethlehem-Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region to the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region; and (2) add Berks, Bradford, Carbon, Lackawanna, Luzerne, Monroe, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming Counties, in the State of Pennsylvania.

§ 81.74 Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region.

The Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Ashtabula County.	Trumbull County.
Mahoning County.	

In the State of Pennsylvania:

Crawford County.	Mercer County.
Erie County.	

It is now proposed to: (1) Change the name of the Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region to the Northwest Pennsylvania-Youngstown Interstate Air Quality Control Region; and (2) add Cameron, Clarion, Clearfield, Elk, Forest, Jefferson, Lawrence, McKean, Potter, Venango, and Warren Counties, in the State of Pennsylvania.

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90–148, 81 Stat. 490, 504, 42 U.S.C. 1857c–2(a), 1857g(a).

Dated: September 15, 1970.

JOHN H. LUDWIG,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70–12671; Filed, Sept. 21, 1970; 8:51 a.m.]

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of Intrastate Regions; Notice of Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Intrastate Air Quality Control Regions as set forth in the following new §§ 81.106–81.112 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the State of South Carolina and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations. Such consultation will take place at 9 a.m., October 2, 1970, in the Auditorium, Third Floor, J. Marion Sims Building, 2600 Bull Street, Columbia, S.C. 29201.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.106 Greenville-Spartanburg Intrastate Air Quality Control Region.

The Greenville-Spartanburg Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Anderson County.	Oconee County.
Cherokee County.	Pickens County.
Greenville County.	Spartanburg County.

§ 81.107 Greenwood Intrastate Air Quality Control Region.

The Greenwood Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Abbeville County.	Laurens County.
Edgefield County.	McCormick County.
Greenwood County.	Saluda County.

§ 81.108 Columbia Intrastate Air Quality Control Region.

The Columbia Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean

Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Fairfield County.	Newberry County.
Lexington County.	Richland County.

§ 81.109 Florence Intrastate Air Quality Control Region.

The Florence Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Chesterfield County.	Florence County.
Darlington County.	Marion County.
Dillon County.	Marlboro County.

§ 81.110 Camden-Sumter Intrastate Air Quality Control Region.

The Camden-Sumter Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Clarendon County.	Lee County.
Kershaw County.	Sumter County.

§ 81.111 Georgetown Intrastate Air Quality Control Region.

The Georgetown Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Georgetown County.	Williamsburg County.
Horry County.	

§ 81.112 Charleston Intrastate Air Quality Control Region.

The Charleston Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Berkeley County.	Dorchester County.
Charleston County.	

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: September 18, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-12669; Filed, Sept. 21, 1970; 8:51 a.m.]

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of Interstate Regions; Notice of Consultations With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Interstate Air Quality Control Regions as set forth in the following new §§ 81.113-81.114 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Georgia and South Carolina and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations. Consultations will take place in Conference Room R/B, Federal Building Courthouse, Bull and State Streets, Savannah, Ga., at 10 a.m. for the Savannah (Georgia)—Beaufort (South Carolina) Interstate Air Quality Control Region and at 2 p.m. for the Augusta (Georgia)—Aiken (South Carolina) Interstate Air Quality Control Region.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in a particular consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.113 Savannah (Georgia)—Beaufort (South Carolina) Interstate Air Quality Control Region.

The Savannah (Georgia)-Beaufort (South Carolina) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Bryan County.	Effingham County.
Chatham County.	Liberty County.

In the State of South Carolina:

Beaufort County.	Hampton County.
Colleton County.	Jasper County.

§ 81.114 Augusta (Georgia)—Aiken (South Carolina) Interstate Air Quality Control Region.

The Augusta (Georgia)—Aiken (South Carolina) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Burke County.	Richmond County.
Columbia County	Screven County.
McDuffie County.	

In the State of South Carolina:

Aiken County.	Barnwell County.
Allendale County.	Calhoun County.
Bamberg County.	Orangeburg County.

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: September 18, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-12670; Filed, Sept. 21, 1970; 8:51 a.m.]

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians; Compensation of Owners

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulation set forth in tentative form below is proposed by the Commissioner of Social Security,

with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation relates to the allowance of compensation for services of owners of hospitals and other providers of services in computing allowable costs under the Hospital Insurance program.

Prior to the final adoption of the proposed regulation, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulation is to be issued under the authority contained in sections 1102, 1814(b), 1861(v), 1871, 49 Stat. 647 as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

Dated: August 13, 1970.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 15, 1970.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart D of Regulations No. 5 of the Social Security Administration (20 CFR 405.401 et seq.) is amended by adding paragraph (d) to § 405.426 to read as follows:

§ 405.426 Compensation of owners.

* * * * *

(d) *Payment requirements*—(1) *Sole proprietorships and partnerships.* The allowance of compensation for services of sole proprietors and partners is the amount determined to be the reasonable value of the services rendered (not to exceed the amount claimed for these services by the provider). Such allowance is an allowable cost regardless of whether there is any actual distribution of profits or other payments to the owner. The operating profit (or loss) of the provider does not affect the allowance of compensation for the owner's services.

(2) *Corporations.* To be includable in allowable costs, compensation for services rendered as an employee, officer, or director by a person owning stock in a corporate provider, must be paid (by cash, negotiable instrument, or in kind) during the cost reporting period in which the compensation is earned or within 75 days thereafter. If payment is not made during this time period, the claimed amount is not included in allowable costs, either in the period earned or in the period when actually paid.

[F.R. Doc. 70-12533; Filed, Sept. 21, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 1-11; Notice 6]

REAR UNDERRIDE PROTECTION; TRUCKS AND TRAILERS

Extension of Time for Comments

A notice of a proposed motor vehicle safety standard on rear underride protection for trucks and buses was published on August 14, 1970 (35 F.R. 12956), with a closing date for comments of September 25, 1970. Certain background information relevant to the proposal was placed in this docket on September 9, 1970. The Automobile Manufacturers Association has petitioned for an extension of the closing date for comments, in order to allow time to evaluate this information. In response to this request, the closing date for comments on the August 14 notice is hereby extended to October 21, 1970.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 16, 1970.

RODOLFO A. DIAZ,
Acting Associate Director, Motor Vehicle Programs.

[F.R. Doc. 70-12535; Filed, Sept. 21, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-965]

CALIFORNIA

Notice of Proposed Amendment to Final Classification of Public Lands for Multiple-Use Management

SEPTEMBER 14, 1970.

The notice appearing in F.R. Doc. 68-664, pages 704 and 705 of the issue of January 19, 1968, is proposed to be changed as follows:

Paragraph 4: Add the following described lands to provide for their segregation from application under all land laws, including the mining and mineral leasing laws, totaling approximately 1,500 acres of public lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

SAN BENITO COUNTY

All public lands in:
T. 18 S., R. 12 E.,
Sec. 4, NW¼SW¼, S½SW¼, and SW¼SE¼;
Sec. 5, lots 5 and 12;
Sec. 9, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, and NE¼;
Sec. 10, lots 4, 5, 6, and 7, S½SW¼NE¼NW¼, SW¼NW¼, S½NE¼SE¼NW¼, NW¼NW¼SE¼NW¼, S½NW¼SE¼NW¼, S½SE¼NW¼, S½SW¼, and SE¼SE¼;
Sec. 14, lots 2 and 3, and NW¼.

All the afore-described lands are found to have high scientific, natural, and recreational values. The lands require the protection afforded by the above segregations to maintain the natural environment. Public comments and the record of public discussion on the additional segregations are of record in the Folsom District Office.

For a period of 60 days from the date of publication of this notice of proposed amendment in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed segregation may present their views in writing to the Folsom District Manager, Bureau of Land Management, 63 Natoma Street, Folsom, Calif. 95630.

A public hearing will be held if sufficient interest is shown.

For the State Director.

DELMAR D. VAIL,
District Manager.

[F.R. Doc. 70-12513; Filed, Sept. 21, 1970; 8:46 a.m.]

IDAHO

Notice of Filing of Plats of Survey

SEPTEMBER 15, 1970.

1. A plat of survey for the following described land, accepted July 30, 1970, will be officially filed in the Land Office, Boise, Idaho, effective at 10 a.m., on October 20, 1970:

BOISE MERIDIAN, IDAHO

T. 7 N., R. 41 E.
Sec. 5, lots 6 and 7;
Sec. 6, lots 12, 13, 14, 15, and 16.

The areas described aggregate 54.54 acres.

2. The lands involve dependent resurveys, survey of islands and omitted lands.

3. The omitted lands are subject to the provisions of the Act of May 31, 1962 (76 Stat. 89). Before sale of any of the omitted lands can be made, a notice in accordance with the regulations in 43 CFR 2546.1 must be published in the FEDERAL REGISTER. Inquiries concerning the lands should be addressed to the Manager, Idaho Land Office, 550 West Fort Street, Boise, Idaho 83702.

ORVAL G. HADLEY,
Land Office Manager,
Boise, Idaho.

[F.R. Doc. 70-12575; Filed, Sept. 21, 1970; 8:50 a.m.]

[New Mexico 435]

NEW MEXICO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 15, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the areas described below. Publication of this notice has the effect of segregating all the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. sec. 1171) and the lands in Group I shall remain open to all other applicable forms of appropriation, including the general mining and mineral leasing laws. The lands described in Group II have high recreational values and it is also necessary to protect the Government's proposed improvements. Therefore, these lands are further segregated from all forms of entry, including the general mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The public lands in Group I are located within the areas described below and are shown on maps designated Las Uvas Planning Unit No. 03-03. The lands in Group II are located in the areas described below and are shown on maps designated Organ Mountain Planning Unit No. 03-08. The maps are on file in the Las Cruces District Office, Bureau of Land Management, 1705 North Seventh Street, Las Cruces, N. Mex. 88001, and at the Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501.

NEW MEXICO PRINCIPAL MERIDIAN

GROUP I

T. 21 S., R. 5 W.,
Sec. 19, lot 2, W½W½SW¼NE¼, and SE¼NW¼
T. 22 S., R. 7 W.,
Sec. 7, W½NE¼, SE¼NE¼, and SE¼;
Sec. 8, E½NW¼, SW¼NW¼, and SW¼;
Sec. 17, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 18, NE¼, E½NW¼, SW¼NW¼, N½SE¼, and SW¼SE¼.

The areas described above aggregate approximately 1,205.03 acres in Luna County.

GROUP II

T. 21 S., R. 2 E.,
Sec. 19, lot 22.
T. 22 S., R. 3 E.,
Sec. 14, W½.
T. 26 S., R. 4 E.,
Sec. 31, lots 2, 3, 4 and SE¼NW¼.

The areas described above aggregate approximately 482.04 acres in Dona Ana County.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions or objections in connection with the proposed classification may present their views in writing to the Las Cruces District Manager, Bureau of Land Management, Las Cruces, N. Mex. 88001.

CLYDE R. DURNELL,
Acting State Director.

[F.R. Doc. 70-12514; Filed, Sept. 21, 1970; 8:46 a.m.]

[New Mexico 929; Amdt. 4]

NEW MEXICO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 15, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and the regulations in 43 CFR Parts 2410 and 2411, the public lands described below were classified for multiple-use management (32 F.R. 3894-3895) on March 9, 1967.

2. Publication of this notice has the effect of further segregating the lands described below from all forms of appropriation under the public land laws,

including the general mining laws but not from the mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserverd by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

3. The public lands described below are unique in that they contain caves having a high archeological and recreational value. The lands are shown on maps on file and available for inspection in the Roswell District Office, Bureau of Land Management, 1902 South Main Street, Roswell, N. Mex. 88201, and in the New Mexico Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501. The description of the lands is as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 22 S., R. 24 E.,
Sec. 35, SW¼SW¼NE¼, and NE¼SE¼NW¼.
T. 24 S., R. 26 E.,
Sec. 18, SW¼NE¼, SE¼NW¼, and N½SW¼.

The areas described aggregate approximately 180 acres in Eddy County.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed amendment, may present their views in writing to the Roswell District Manager, Bureau of Land Management, Post Office Box 1397, Roswell, N. Mex. 88201.

CLYDE R. DURNELL,
Acting State Director.

[F.R. Doc. 70-12515; Filed, Sept. 21, 1970; 8:46 a.m.]

[M 10872(SD)]

SOUTH DAKOTA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 14, 1970.

Notice of a Bureau of Sport Fisheries and Wildlife of the Fish and Wildlife Service, application Montana 10872(SD), for withdrawal and reservation of lands for preservation and protection of the black-footed ferret, was published as F.R. Doc. 69-774 on page 944 of the issue for January 22, 1969. The applicant agency has canceled its application involving the land described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR Subpart 2311, such lands at 10 a.m. on October 15, 1970, will be relieved of the segregative effect of the above mentioned application.

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 70-12576; Filed, Sept. 21, 1971; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Office of Plant and Operations

FEE SCHEDULE

Pursuant to the authority delegated to the Director, Office of Plant and Operations, in Title 7, Code of Federal Regulations, § 1.2b, there is published the following:

FEE SCHEDULE

SECTION 1. *General.* This notice sets forth the policy on providing copies of records, including photographic reproductions, microfilm, maps and mosaics, related services, and the fees therefor. The agencies of the Department will be guided by these procedures in making copies available to the public, and in the collection of appropriate fees.

SEC. 2. *Facilities.* Records and related services are available at the locations specified by the agencies in their statements of organization and services. Each agency establishes procedures to facilitate public inspection and copying of records. Any materials offered for sale by the Government Printing Office should be purchased from that source. Departmental agencies will not stock such materials for public sale.

Agencies do not stock copies of forms and publications or maintain records at any facility which does not of itself require these materials in its operations.

SEC. 3. *Fees for materials and services.* All agencies of the Department shall be guided by the fees set forth herein. Any changes or additions to this fee schedule shall be made by amendment to or revision of this schedule. Agencies may set their own fees on specialized materials such as printouts, directives, handbooks, building plans, etc. However, where applicable, single printed sheets or forms shall conform to the rate set for forms. Where a fee has not been established in this schedule, an appropriate fee will be set by the individual agency.

SEC. 4. *Circumstances governing charging of fees for records and related services.* (For photographic reproductions, see section 12.)

A. *Waiver of fees for records and related services.* Fees may be waived under the following conditions:

1. Individual collections of less than $1.

2. For individual collections of more than $1 where the total cost of collecting the fees would be an unduly large part of the receipts.

3. Where the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country.

4. Where the recipient is engaged in a nonprofit activity designed for the public safety, health or welfare.

5. All or part of the fee may be waived where payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program.

B. *Fees not to be charged for records and related services.* (For photographic reproductions, see section 12.)

1. For services when the service can be primarily considered as benefiting the general public.

2. When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number.

3. When members of the public provide their own copying equipment, in which case no copying fee will be charged.

4. No charge will be made by any agency of the Department for any notices, decisions, orders or other material required by law to be served on a party in any proceedings or matter before any Department agency.

SEC. 5. *Limitations on copies.* Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

When transcripts are requested which have been provided the Department under a reporting service contract which requires that copies of transcripts be sold only by the contractor, the public may be shown a copy of the transcript. However, the agency shall refer the public to the contractor for purchase of copies.

SEC. 6. *Searches and deletions.* Because of the nature of the Department's business and records, the normal location of a document in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing reasonably specific description of the record.

Where a requested record is not discovered by normal location efforts, or where deletion of part of a record is necessary, the office will notify the requestor of that fact and require payment of the estimated search or deletion charge as prescribed in the fee schedule in advance before further efforts are undertaken to locate the requested record. Such searches shall be limited by availability of time and staff to perform them and to locations where the record would reasonably be expected to be found.

SEC. 7. *Payments of fees and charges.* Payments will be made to the fullest extent possible in advance or at the time of the transaction. Except as otherwise stipulated by agency procedures, payment shall be made by check, draft, or money order made payable to Treasurer of the United States, but small amounts may be paid in cash, particularly where services are performed in response to a visit to a Department office.

SEC. 8. *Fees for records and related services.*

Class of service	Unit	Price	Minimum
(a) Photocopies 8½" x 14" or less (excluding aerial photographs).	Each	$0.25	No minimum.
(b) Forms and related material, 8½" x 14" or less	Each	$0.05	No minimum.
(c) Certifications	Each	$1.00 (additional to any other charge).	$1.00.
(d) Authentications under Department Seal (excluding aerial photographs).	Each	$2.00 (additional to any other charge).	$2.00.
(e) Searches and deletions	Each	$1.00 each 15 minutes or fraction thereof.	$4.00.

(f) An additional handling charge of $0.50 for each order may be imposed when a request must be sent to another office for filling, or request is handled by mail.

SEC. 9. *Photographic reproduction, microfilm, mosaic, and maps.* Reproduction of such aerial or other photographic microfilm, mosaic and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed herein.

SEC. 10. *Agencies which furnish photographic reproductions*—a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS).
Forest Service (FS).
Soil Conservation Service (SCS).

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service.
Forest Service.
Office of Information.
Soil Conservation Service.
National Agricultural Library.

SEC. 11. *Photographic sales committee.* The Photographic Sales Committee consists of representatives designated by Department agencies principally concerned with the sale of photographic reproductions. The Committee recommends prices at which photographic and mosaic reproductions, except library material, shall be sold, and other matters related to photographic reproductions.

SEC. 12. *Circumstances under which photographic reproductions may be provided free.* No charge need be made for services which can be primarily considered as benefiting the public generally. Accordingly, reproductions may be furnished free at the discretion of the agencies of the Department to:

a. Press, radio, television, and newsreel representatives for dissemination to the general public.

b. Agencies of State and local Governments which are carrying on a function related to that of the Department when furnishing the service will help to accomplish an objective of the Department.

c. Cooperators and other in furthering agricultural programs. As a general rule, only one print of each photograph should be provided free. Care should be exercised in approving requests for free prints to determine that such action is in the public interest.

SEC. 13. *Loans.* Aerial photographic film negatives or reproductions may not be loaned to the general public.

SEC. 14. *Sales of positive prints under government contracts.* The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents, and other agencies cooperating with the Department, carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

SEC. 15. *Procedure for handling orders.* In order to expedite handling, all orders shall contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

SEC. 16. *Photographic reproduction prices.* The prices for photographic reproduction listed here are for the most generally requested items.

a. *National Agricultural Library.* The following prices are applicable to National Agricultural Library items only:

Microfilm—$1 for each 30 pages or fraction thereof.
Photoprint—$1 for each 4 pages or fraction thereof.

b. *General photographic reproductions.* Minimum charge $1 per order. All sizes are approximate. An extra charge may be necessary for excessive laboratory time caused by any special instructions from the purchaser.

Class of work	Unit	Price
1. Copy negatives and film positives:		
4 x 5	Each	$2.00
5 x 7	Each	2.20
8 x 10	Each	2.90
11 x 14	Each	4.75
2. Contact and projection prints. (Quotations will be furnished on quantities of six or more reproductions from the same negative.):		
4 x 5	Each	$0.90
5 x 7	Each	1.20
8 x 10, 8 x 10½	Each	1.50
11 x 14	Each	2.55
Larger sizes	Square foot	2.30
Sepia tone—add 50%.		
Double weight paper—add 20% for air drying, spotting, and finishing matte paper.		
3. Mounting:		
Cloth (plain)	Square foot	$1.35
Cardboard and wall board	Square foot	1.50
4. Projection slides (black and white) made from flat copy: (Quotations will be furnished on quantities of six or more reproductions from the same negative.):		
2 x 2 (bound in cardboard)	Each	$0.95
5. Projection slides (color) made from flat copy:		
2 x 2 (mounts) metal	Each	$1.80
2 x 2 (mounts) cardboard	Each	1.45

Number	Unit	Price	Unit	Price
	Cardboard mounts		*Metal or plastic mounts*	
6. Duplicate Projection 2 x 2 slides (color):				
1–5	Each	$0.55	Each	$0.85
6–30	Each	.50	Each	.75
31–50	Each	.45	Each	.70
51 or more	Each	.35	Each	.65
7. Duplicate transparencies:				
4 x 5			Each	6.80
Prints, same copy			Each	2.90

c. *Aerial photographic reproductions.* No minimum charge on aerial photographic reproductions.

Single or double weight paper not ferrotyped (doubled weight, semimatte furnished, unless otherwise specified). All contact prints and enlargements unmounted and untrimmed. Contact prints trimmed for 5 cents each when requested.

1. *Contact prints.* The prices for contact prints are set forth below. The size refers to the approximate size of the contact print.

Quantity	Price each
Approximate scales 9" x 9" on commercial grade paper: ASCS and SCS—1667'=1". FS—1320'=1".	
1–25	$1.25
Excess over 25	.90

For polyester base paper, add $0.50 for contact print. (Available from ASCS only.)

2. *Enlargements* (projection prints). The prices for enlargements of various sizes, made from 9 x 9 inch negatives, are set forth below. The size in each case refers to the approximate size of paper required to produce the enlargement ordered. For "scale accuracy", add $0.50 per print.

Quantity	Price each
Approximate scales Size 13 x 13 inches: ASCS and SCS—1320'=1". FS—880'=1".	
1–25	$2.50
Excess over 25	2.00
Approximate scales Size 17 x 17 inches: ASCS and SCS—1000'=1". FS—754'=1".	
1–25	3.00
Excess over 25	2.50
Approximate scales Size 24 x 24 inches: ASCS and SCS—660'—1". FS—528'=1".	
1–25	4.00
Excess over 25	3.25
ASCS also can furnish 330'=1" (quadrant) scale in this size.	
Approximate scales Size 38 x 38 inches: ASCS and SCS—400'=1". FS—330'=1".	
1–25	8.00
Excess over 25	7.00

For larger size reproductions, add $2 for each additional 12" or fraction thereof, linear measurement.

Quantity	Price each
Approximate scale size 24 x 45 inches (ASCS only): 330'=1".	
1–25	$8.00
Excess over 25	6.50
3. Aerial photo-index sheets: Approximate scale size 20 x 24 inches: 1"=1 mile.	
Any quantity	2.50
4. Film Positives: Contact printed from aerial negatives, size 9 x 9 inches.	
1–25	2.50
Excess over 25	(Laboratory will quote on request).
5. Copy Negatives: On film, of aerial exposures, size 9 x 9 inches.	
One-step method (direct duplicating film)	
1–25	2.50
Excess over 25	(Laboratory will quote on request).

Quantity	Price each
Two-step method	
Any quantity	$5.00
6. Diapositives: Prints on glass, size 9 x 9 inches, thickness 0.06 inch.	
1-25	6.50
Excess over 25	6.00

7. *Color photography:* Furnished only by Agricultural Research Service, Weslaco, Tex., laboratory.

Quantity	Price each
Negative print made from transparency	
Any quantity	$4.50
Positive print made from negative	
Any quantity	5.50

8. *Special needs.* For special needs not covered above, persons desiring aerial photographic reproductions should contact the agencies listed in section 10a, or the Coordinator, Aerial Photographic Work of the Department of Agriculture, ASCS, Washington, D.C. 20250.

SEC. 17. The fee schedule published in the FEDERAL REGISTER on October 2, 1968 (33 F.R. 14726) is superseded by this fee schedule.

SEC. 18. *Effective date.* This fee schedule and related procedures shall become effective upon publication in the FEDERAL REGISTER.

Dated: September 17, 1970.

ELMER MOSTOW,
Director,
Office of Plant and Operations.

[F.R. Doc. 70-12584; Filed, Sept. 21, 1970; 8:50 a.m.]

Packers and Stockyards Administration

JACKSON CO. LIVESTOCK CO. ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ALABAMA	
Jackson County Livestock Co., Inc., Scottsboro, Nov. 21, 1969.	Jackson Co. Livestock Co., Aug. 1, 1970.
NEBRASKA	
Newman Grove Livestock Market, Newman Grove, May 6, 1959.	Newman Grove Livestock Market, Inc., July 1, 1970.
OKLAHOMA	
Ringling Auction Sale, Ringling, Mar. 6, 1950	Ringling Community Livestock Auction Sale, June 20, 1970.
Maxson Sales Co., Inc., South Coffeyville, Oct. 14, 1959.	Maxson Sales Company, July 11, 1970.
PENNSYLVANIA	
Belknap Auction, Inc., Dayton, Feb. 3, 1960	Belknap Livestock Market, Inc., July 1, 1970.

Done at Washington, D.C., this 16th day of September 1970.

E. L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-12582; Filed, Sept. 21, 1970; 8:50 a.m.]

WISCONSIN FEEDER PIG MARKETING COOPERATIVE ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below, it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302.

Name, location of stockyard, and date of posting

MINNESOTA

Wisconsin Feeder Pig Marketing Cooperative, Sauk Centre, Aug. 31, 1970.

MISSOURI

Beck & McCord Auction Co., Inc., Sikeston, Aug. 27, 1970.

MFA-Livestock Association, Inc., Taneyville Concentration Point, Taneyville, Aug. 11, 1970.

OKLAHOMA

AgMarkets, Inc., Holdenville, Aug. 28, 1970.

Shawnee-Tecumseh Livestock Auction, Shawnee, Aug. 11, 1970.

TEXAS

Morton Livestock Auction Co., Morton, Sept. 4, 1970.

Done at Washington, D.C., this 16th day of September 1970.

E. L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-12583; Filed, Sept. 21, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(70)-8]

ARMAZENS DE PRODUTOS QUIMICOS DE MOCAMBIQUE, LIMITADA

Order Denying Export Privileges for Indefinite Period

In the matter of Armazens De Produtos Quimicos De Mocambique, Limitada, Lourenco Marques, Mozambique, respondent.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above respondent all export privileges for an indefinite period because the said respondent failed to furnish responsive answers to interrogatories and failed to furnish certain records and other writings specifically requested, without good cause being shown. This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent Armazens De Produtos Quimicos De Mocambique, Limitada of Lourenco Marques, Mozambique is the owner or operator of a tank of 20,000-ton capacity used for the storage of ammonia that is used in the production of fertilizer; that the respondent exports large quantities of ammonia on a regular and continuing basis from Mozambique to Rhodesia; and that in May and July 1969 the respondent received two shipments of U.S.-origin ammonia aggregating approximately 20,000 tons valued in excess of $600,000. The said Investigations Division is conducting an investigation to determine if any of the U.S.-origin ammonia was reexported from Mozambique to Rhodesia or any other destination in violation of the U.S. Export Control Regulations.

It is impracticable to subpoena the respondent and relevant and material written interrogatories and requests to furnish certain specific documents relating to the matters under investigation were served on it pursuant to § 388.15 of the Export Control Regulations. The respondent has failed to furnish responsive answers or the documents requested, as required by said section and it has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period is reasonably necessary to achieve effective enforcement of the Export Administration Act of 1969 and to meet the international obligations of the United States Government.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its successors, agents, employees, representatives, and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon it or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent.

VII. In accordance with the provisions of § 388.15 of the Export Control Regulations, the respondent may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner, Washington, D.C., at the earliest convenient date.

Dated: September 11, 1970.

This order shall become effective forthwith.

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

[F.R. Doc. 70-12573; Filed, Sept. 21, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMCHEM PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1016) has been filed by Amchem Products, Inc., Ambler, Pa. 19002, proposing the establishment of a tolerance for negligible residues of the plant regulator ethephon ((2 - chloroethyl) phosphonic acid) in or on the raw agricultural commodity pineapples at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the plant regulator is a procedure in which the residue is esterified with diazomethane and then analyzed by gas chromatography with a flame photometric detector.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12551; Filed, Sept. 21, 1970; 8:48 a.m.]

Office of Education

RECEIPT OF PUBLIC LAW 81-815 APPLICATIONS

Notice of Cutoff Date, Fiscal Year 1971

Pursuant to the authority vested in me by section 3 of Public Law 81-815 (20 U.S.C. 633) and 45 CFR 114.2, notice is hereby given of the following cutoff date: -

For the purpose of Public Law 81-815, other than section 16, November 20, 1970, is hereby set as the date during fiscal year 1971 on or before which complete applications for payments to which an applicant may be entitled under the Act from such funds as may be available for such purposes shall be filed.

Dated: September 15, 1970.

T. H. BELL,
Acting Commissioner of Education.

[F.R. Doc. 70-12550; Filed, Sept. 21, 1970; 8:48 a.m.]

Public Health Service

REGIONAL HEALTH DIRECTORS, HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Delegation of Authority for Change of Station Travel

I hereby delegate to the Regional Health Directors the authority to authorize domestic travel and transportation of civilian employees in connection with permanent change of duty station. Exercise of this authority shall be contingent upon the prior issuance of a personnel journal (S.F. 50) transferring or appointing the employee to the region concerned and shall be exercised in accordance with the provisions of the Travel Manual.

VERNON E. WILSON,
Administrator.

AUGUST 3, 1970.

[F.R. Doc. 70-12574; Filed, Sept. 21, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[Dockets No. 70-16, 70-17]

AIR BRAKES ON TRUCKS, BUSES, AND TRAILERS

Notice of Technical Conference

On October 20, 1970, the National Highway Safety Bureau will hold a technical conference, beginning at 9 a.m., in the Department of Transportation building, Room 2230, 400 Seventh Street SW., Washington, D.C., to discuss the issues presented by the notices of proposed motor vehicle safety standards on Air Brakes—Trucks and Buses (Docket 70-

16) and Air Brakes—Trailers (Docket 70–17). The closing date for comments to each docket is September 21, 1970. On or about October 12, 1970, the Director will issue a notice in the FEDERAL REGISTER setting out the specific matters to be discussed at the conference.

Interested persons are invited to attend and participate in the conference and to present written comments evaluating current air brake technology in the light of the proposed rules. Of particular interest will be data obtained from tests conducted according to the procedures specified in the notices of proposed rule making, and data obtained from other test experience. Comments previously made in response to the notices of proposed rule making will be considered at the conference and need not be repeated. Written comments may be submitted by any interested person, whether or not he attends the meeting, and should be submitted to Mr. George Nield, National Highway Safety Bureau, Room 5234, 400 Seventh Street SW., Washington, D.C. 20591, not later than October 26, 1970. All comments will be incorporated as an appendix to the conference transcript. The transcript and appended comments will be considered in the preparation of the final rules on air brakes.

The conference transcript will be available for examination in the Docket Room, National Highway Safety Bureau, 400 Seventh Street SW., Washington, D.C., approximately 3 working days after the conference.

Issued on September 16, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

[F.R. Doc. 70–12536; Filed, Sept. 21, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22229; Order 70–9–86]

AIR WISCONSIN, INC.

Order To Show Cause

Issued under delegated authority September 16, 1970.

On May 26, 1970, the Postmaster General filed a notice of intent pursuant to 14 CFR Part 298, petitioning the Board to establish for Air Wisconsin, Inc. (Air Wisconsin) final service mail rates for the transportation of mail by aircraft between Wausau, Oshkosh, and Milwaukee, Wis., and Chicago, Ill.

Air Wisconsin is an air taxi operator currently providing services pursuant to Part 298 of the Board's economic regulations. No service mail rates are currently in effect for this transportation by Air Wisconsin. The petitioner requests that the current multielement service mail rates in effect for North Central Airlines, Inc., in those markets be made applicable to Air Wisconsin. The present service mail rates for North Central Airlines, Inc., were established for priority mail by Order E–25610, August 28, 1967, in the Domestic Service Mail Case, and for nonpriority mail by Order 70–4–9, April 2, 1970, in Nonpriority Mail Rates.[1] The Postmaster General further states that Air Wisconsin proposes to initiate service with De Havilland Twin Otter aircraft and that the Post Office Department and the carrier agree that the foregoing rates are the fair and reasonable rates of compensation for the proposed services.

By Order 70–9–40, September 8, 1970, the Board determined to approve the notice of intent thereby permitting it to become effective pursuant to 14 CFR Part 298. Therefore, Air Wisconsin may provide the proposed air transportation of mail for a temporary period ending June 30, 1974. Since no mail rate is presently in effect for this carrier in these markets, it is necessary and in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid to Air Wisconsin by the Postmaster General for the proposed mail transportation between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

1. On and after September 8, 1970, the fair and reasonable final service mail rates to be paid to Air Wisconsin, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Wausau, Oshkosh, and Milwaukee, Wis., and Chicago, Ill., shall be:

(a) For priority mail, the multielement rate established by the Board in Order E–25610, August 28, 1967;

(b) For nonpriority mail, the multielement rate established by the Board in Order 70–4–9, April 2, 1970.

2. The service mail rates here fixed and determined are to be paid entirely by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302 and 14 CFR 385.16(f):

It is ordered, That:

1. Air Wisconsin, Inc., the Postmaster General, North Central Airlines, Inc., Northwest Airlines, Inc., and all interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above, as the fair and reasonable rates of compensation to be paid to Air Wisconsin, Inc., for the transportation of priority and nonpriority mail by aircraft, the facilities used and used therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified below; and

3. This order shall be served upon Air Wisconsin, Inc., the Postmaster General, North Central Airlines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70–12568; Filed, Sept. 21, 1970; 8:49 a.m.]

[1] Present service rates provide for terminal charges per pound of 2.34 cents at Chicago and Milwaukee, and 9.36 cents at Oshkosh and Wausau, plus line-haul charges per mail ton-mile of 24 cents for priority mail and 11.33 cents for nonpriority mail.

[2] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 21957]

ALLEGHENY AIRLINES, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled docket is assigned to be held on September 30, 1970, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Hyman Goldberg.

Dated at Washington, D.C., September 17, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70–12567; Filed, Sept. 21, 1970; 8:49 a.m.]

[Docket No. 20291; Order 70–9–90]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Sales Agents

Issued under delegated authority September 17, 1970.

By Order 70–9–12, dated September 1, 1970, action was deferred, with a view toward eventual approval, on a resolution adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement would

amend provisions governing the granting of free and reduced fare transportation to passenger sales agents and tour conductors.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-9-12 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21882, R-2 through R-5, be and it hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12569; Filed, Sept. 21, 1970; 8:49 a.m.]

[Docket No. 22527; Order 70-9-82]

ROSS AVIATION, INC.

Order To Show Cause

Issued under delegated authority September 16, 1970.

The Postmaster General filed a notice of intent August 31, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 73.48 cents per great circle aircraft mile for the transportation of mail by aircraft between Richmond, Va., and Baltimore, Md., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Ross Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be per great circle aircraft mile between Richmond, Va., and Baltimore, Md., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Ross Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., National Airlines, Inc., Piedmont Aviation, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Ross Aviation, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within ten days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Ross Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., National Airlines, Inc., Piedmont Aviation, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12570; Filed, Sept. 21, 1970; 8:49 a.m.]

[Docket No. 22528; Order 70-9-83]

ROSS AVIATION, INC.

Order To Show Cause

Issued under delegated authority September 16, 1970.

The Postmaster General filed a notice of intent August 31, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 73.48 cents per great circle aircraft mile for the transportation of mail by aircraft between Roanoke and Richmond, Va., via Lynchburg, Va., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Ross Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 73.48 cents per great circle aircraft mile between Roanoke and Richmond, Va., via Lynchburg, Va., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Ross Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., Piedmont Aviation, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Ross Aviation, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Ross Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., and Piedmont Aviation, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12571; Filed, Sept. 21, 1970; 8:49 a.m.]

[Docket No. 22517; Order 70-9-88]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause

Issued under delegated authority September 16, 1970.

The Postmaster General filed a notice of intent August 28, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 62.08 cents per great circle aircraft mile for the transportation of mail by aircraft between Cleveland, Ohio, and South Bend, Ind., via Columbus, Ohio, and Indianapolis, Ind., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 62.08 cents per great circle aircraft mile between Cleveland, Ohio, and South Bend, Ind., via Columbus, Ohio, and Indianapolis, Ind., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12572; Filed, Sept. 21, 1970; 8:49 a.m.]

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19002; FCC 70-990]

CARSON CITY BROADCASTING CORP. (KRWL-FM)

Order Designating Application for Oral Argument on Stated Issue

In regard application of Carson City Broadcasting Corp. (KRWL-FM), Carson City, Nev., Docket No. 19002, File No. BPH-6897; for construction permit to replace expired permit.

1. The Commission has for consideration a request for reinstatement of an application for a construction permit to replace an expired permit for station KRWL-FM, Carson City, Nev., filed July 17, 1970, by Thornton L. Audrain, receiver, on behalf of the permittee corporation, Carson City Broadcasting Corp.

2. The above-captioned application was dismissed by the Chief, Broadcast Bureau, acting pursuant to delegated authority (§ 0.261 (z) and (i) of the rules), on June 19, 1970, because the applicant had failed to demonstrate that it had exercised due diligence in the prosecution of construction or that construction had been prevented by causes not under its control, within the meaning of section 319(b) of the Communications Act of 1934, as amended, and for failure to respond to official correspondence. However, in accordance with the provisions of § 0.281(z), which applied by implication to applications to replace expired permits as well as to applications for additional construction time, the applicant was advised that if it desired a hearing, it could request reinstatement within a 30-day period. Subsequently, on July 17, 1970, a request for reinstatement of the above-captioned application was submitted by the appointed receiver in Bankruptcy for the permittee corporation.

3. *It is ordered,* That Thornton L. Audrain, receiver, is accorded status as a party in interest for the purpose of requesting reinstatement of the above-captioned application.

4. *It is further ordered,* That the above-captioned application is reinstated.

5. *It is further ordered,* That the above-captioned application is designated for oral argument before the Review Board in Washington, D.C., at a time and place to be specified in a subsequent order, on the following issue: To determine whether the reasons advanced by the permittee in support of its request for replacement of its expired permit, constitute a showing that failure to complete construction was due to causes not under control of the permittee, or constitute a showing of other matters sufficient to warrant a further extension of construction time within the meaning of section 319(b) of the Communications Act of 1934, as amended, and § 1.534(a) of the Commission's rules.

6. *It is further ordered,* That Thornton L. Audrain, receiver, is accorded status as a party in interest for the purpose of appearing at the oral argument on behalf of the permittee.

7. *It is further ordered,* That to avail himself of the opportunity to be heard, Thornton L. Audrain, receiver, in person, or by attorney, shall within ten (10) days of the mailing of this order, file with the Commission, an original and nineteen (19) copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified, and shall have until September 25, 1970, to file briefs or memoranda of law.

Adopted: September 9, 1970.

Released: September 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12537; Filed, Sept. 21, 1970; 8:46 a.m.]

[Dockets Nos. 18987, 18988; FCC 70-974]

COMMUNICATIONS ASSOCIATES, INC., AND QUALITY BROADCASTERS

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Communications Associates, Inc., Humboldt, Tenn., Docket No. 18987, File No. BP-18084, requests: 1190 kc., 500 w., Day; Edward B. Fritts, Ruth O. Fritts, and Edward O. Fritts, doing business as Quality Broadcasters, Union City, Tenn., Docket No. 18988, File No. BP-18466, requests: 1190 kc., 500 w., DA-Day; for construction permits.

1. The Commission has before it for consideration (i) the above captioned mutually exclusive applications; (ii) a petition for reconsideration filed by Gibson County Broadcasting Co., licensee of Station WIRJ, Humboldt, Tenn., directed against the Commission's action of May 15, 1968, accepting the application of Communications Associates, Inc. (Associates) for filing; and (iii) pleadings in opposition and reply thereto.

2. In its petition, WIRJ contends that the Associates proposal prejudices future consideration of a Class II-A assignment on 1160 kc. and thus should not have been granted a waiver by the Commission of § 1.569 of the rules. Petitioner contends that Associates' engineering showing erred in concluding that primary service presently provided by Class I-A Station WSM, Nashville, Tenn., covered all the potential underserved area in which a future II-A station might be assigned. The petition was accompanied by extensive field intensity measurement data indicating that the 0.5 mv/m contour of WSM did not extend nearly as far as shown by Associates' study which had been based on Figure M-3 conductivities.

[1] Commissioner H. Rex Lee absent.

3. The petition will be denied. Contrary to WIRJ's contention, the Commission, at the time the waiver was granted, knew that underserved area existed in the vicinity of Humboldt. The waiver, however, was not based on the absence of underserved area. It was grounded on the fact that any potential II-A assignment which might involve a conflict with Associates' proposal would be 30 kilocycles removed in frequency. In keeping with our general policy in such cases, we concluded that a finding of material prejudice to possible II-A assignments under these circumstances would be unrealistic. Peter L. Pratt, 16 FCC 2d 967.

4. Examination of Associates' engineering exhibits indicates that the geographical coordinates specified do not depict the transmitter site as shown on the exhibits submitted. Accordingly, an issue with respect thereto will be included. Likewise, an air hazard issue will be specified because Associates has yet to receive clearance from the Federal Aviation Administration.

5. Since both of the applicants have failed to keep their financial data current, it will be necessary for them to establish their qualification in hearing. Accordingly, an appropriate issue will be included.

6. In Suburban Broadcasters, 30 FCC 1020, 20 RR 951 (1961), in City of Camden (WCAM), 18 FCC 2d 412 (1969), 16 RR 2d 555, and more recently in our proposed Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. Although Quality Broadcasters appears to have met these requirements, Communications Associates has failed, with few exceptions, to list the suggestions received and has not supplied sufficient information to enable us to determine whether the people interviewed represented a true cross-section of the Community. Accordingly, a Suburban issue will be included as to the latter applicant.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the above proposals and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine whether Communications Associates, Inc., is financially qualified to construct and operate its proposed station.

(3) To determine whether Quality Broadcasters is financially qualified to construct and operate its proposed station.

(4) To determine whether the geographical coordinates specified by Communications Associates, Inc., accurately depict the location of the proposed transmitter site.

(5) To determine the efforts made by Communications Associates, Inc., to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(6) To determine whether there is a reasonable possibility that the tower height and location proposed by Communications Associates, Inc., would constitute a menace to air navigation.

(7) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(8) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

9. *It is further ordered,* That the petition for reconsideration filed by Gibson County Broadcasting Co., is denied.

10. *It is further ordered,* That the Federal Aviation Administration is made a party to the proceeding.

11. *It is further ordered,* That in the event of a grant of the application of Communications Associates, Inc., the construction permit shall contain the following condition: Permittee shall install an approved type frequency monitor.

12. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written notice stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

13. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 9, 1970.

Released: September 16, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12538; Filed, Sept. 21, 1970; 8:46 a.m.]

[1] Statement of Commissioner Robert E. Lee filed as part of original document; Commissioner H. Rex Lee absent.

[Dockets Nos. 18989, 18990; FCC 70-975]

HORNE INDUSTRIES, INC., AND TELLUM BROADCASTING COMPANY OF SEARCY, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Horne Industries, Inc., Searcy, Ark., Docket No. 18989, File No. BPH-6810, requests: 99.3 mcs., No. 257; 3 kw. (H); 3 kw. (V); 153 feet; Tellum Broadcasting Company of Searcy, Inc., Searcy, Ark., Docket No. 18990, File No. BPH-6953, requests: 99.3 mcs., No. 257; 3 kw. (H); 3 kw. (V); 285 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. According to its application Tellum Broadcasting would require $40,000 to construct and operate its proposed station for 1 year without reliance on revenues. To meet this requirement, applicant relies on cash on hand and anticipated station revenues. The former totals at most only $6,598 and no showing of the latter's availability has been made. Accordingly, a financial issue will be specified.

3. In Suburban Broadcasters, 30 FCC 951 (1961), our Public Notice of August 22, 1968, FCC 68-847, 13 RR 2d 1903, City of Camden (WCAM), 18 FCC 2d 412 (1969), and more recently in our proposed Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, released December 19, 1969, we indicated that applicants were expected to provide full information on their awareness of and responsiveness to local community needs and interests. In this case neither applicant appears to have contacted a representative cross-section of the area. Both, however, have provided adequate comments from the individuals which have been contacted. In addition, neither has adequately provided a listing of specific programs responsive to specific community problems as evaluated. As a result, we are unable at this time to determine whether either of the applicants is aware of and responsive to the needs of the area. Accordingly, Suburban issues are required.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mv/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Horne Industries proposes approximately 64 percent duplicated programming while Tellum Broadcasting proposes independent operation. Therefore, evidence regarding program duplicated will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits and detriments to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programming inquiry—Jones T. Sudbury, 8 FCC 2d 360, FCC 67-614 (1967).

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether Tellum Broadcasting has available the additional $33,402 required for construction and first-year operation of its proposed station without reliance on revenues to thus demonstrate its financial qualifications.

(2) To determine the efforts made by Horne Industries to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(3) To determine the efforts made by Tellum Broadcasting to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(4) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(5) To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications for construction permit should be granted.

8. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 9, 1970.

Released: September 16, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-12539; Filed, Sept. 21, 1970; 8:47 a.m.]

[Dockets Nos. 18991, 18992; FCC 70-976]

JOHN HUTTON CORP. AND KIRK MUNROE

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of John Hutton Corp., Wailuku, Hawaii, Docket No. 18991, File No. BPH-6970, requests: 95.1 mcs., No. 236; 2.3 kw. (H); 2.3 kw. (V); 6,046 feet; Kirk Munroe, Wailuku, Hawaii, Docket No. 18992, File No. BPH-7016, requests: 95.1 mcs., No. 236; 97.76 kw.; 286.3 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. John Hutton Corp. proposes approximately 50 percent duplicated programing while Kirk Munroe proposes independent programing. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits and detriments to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury, 8 FCC 2d 360, FCC 67-614 (1967).

3. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

4. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine in the light of the evidence adduced pursuant to the fore-

[1] Commissioner H. Rex Lee absent.

going issue, which of the applications for construction permit should be granted.

5. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 9, 1970.

Released: September 16, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12540; Filed, Sept. 21, 1970; 8:47 a.m.]

[Dockets Nos. 19004, 19005; FCC 70-996]

LAFOURCHE VALLEY ENTERPRISES, INC., AND SOUL BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Lafourche Valley Enterprises, Inc., Donaldsonville, La., Docket No. 19004, File No. BPH-6801, requests: 104.9 mcs., No. 285; 3 kw. (H); 3 kw. (V); 300 feet; Roth E. Hook, trading as Soul Broadcasting Co., Donaldsonville, La., Docket No. 19005, File No. BPH-6954, requests: 104.9 mcs., No. 285; 3 kw. (H); 3 kw. (V); 300 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. According to its application, Soul Broadcasting would require $47,500 to construct and operate its proposed station for 1 year without reliance on revenues. To meet this requirement, applicant relies on cash on hand ($19,600), partnership contributions ($8,400) and a loan from a relative of the principal partner ($50,000). No credit, however, can be given for the latter items as their ability to meet the respective commitments has not been documented. Accordingly, a financial issue will be specified.

[1] Commissioner H. Rex Lee absent.

3. A full comparison of the programing proposals is warranted when one applicant proposes predominantly specialized programing and the other, general market programing—Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, Soul Broadcasting proposes predominantly Black oriented programing while Lafourche Valley proposes general market programing. Therefore, the programing proposals of the applicants may be compared under the standard comparative issue.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether Soul Broadcasting has available the additional $39,100 required for construction and first-year operation of its proposed station without reliance on revenues to thus demonstrate its financial qualifications.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine in the light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permit should be granted.

6. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 15, 1970.

Released: September 17, 1970.

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

[F.R. Doc. 70-12541; Filed, Sept. 21, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD., AND EVERETT ORIENT LINES

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.

Notice of agreement filed by:

D. J. Morris, Manager, Rates and Conferences, American President Lines, 601 California Street, San Francisco, Calif. 94108.

Agreement No. 9897, between American President Lines (initial carrier) and Everett Orient Lines (delivering carrier), establishes a through billing arrangement for the movement of commercial cargo, military household goods, personal effects and unaccompanied baggage from ports of call of American President Lines on the U.S. Pacific Coast to ports of call of Everett Orient Lines in Burma, East Pakistan, and India, with transshipment at ports in Japan, Hong Kong, or Singapore in accordance with the terms and conditions set forth in the agreement.

Dated: September 17, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12577; Filed, Sept. 21, 1970; 8:50 a.m.]

PORT OF SEATTLE AND SEA-LAND SERVICE, INC.

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.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreement No. T-2451 between the Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land) is a personal property lease covering the lease of container cranes at the facility in Seattle leased by Sea-Land under the terms of FMC Agreement No. T-2005, as amended. Rental terms and options for sublease are set forth in the agreement. The parties have agreed to separate the above items from Agreement No. T-2005, as amended, because of recent changes in the tax laws of the State of Washington.

Dated: September 16, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12578; Filed, Sept. 21, 1970; 8:50 a.m.]

PORT OF SEATTLE AND SEA-LAND SERVICE, INC.

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.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreement No. T-2005-6 between the Port of Seattle and Sea-Land Service, Inc., modifies the basic agreement which provides for the lease of property at Seattle for use as a marine terminal. The purpose of the modification is to provide for the acquisition of a third container crane and related electrical system for its operation, and adjusts the monthly rental. It also provides that the crane, together with Cranes No. 1 and No. 2 will be deleted from the basic lease coverage as movable personal property and incorporated in a separate personal property lease (FMC No. T-2451). Agreement No. T-2005-5, between the same parties, noted in 35 F.R. 168, August 28, 1970, is hereby withdrawn.

Dated: September 16, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12579; Filed, Sept. 21, 1970; 8:50 a.m.]

WEST INDIAN CO., LTD., AND BERWIND LINES, INC.

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.

Notice of agreement filed for approval by:

Mr. Raymond P. de Member, Haight, Gardner, Poor & Havens, Federal Bar Building, 1815 H Street NW., Washington, D.C. 20006.

Agreement No. T-2449 between the West Indian Co., Ltd., St. Thomas, V.I. (West Indian) and Berwind Lines, Inc. (Berwind), provides that Berwind will be given priority berthing of a loading ramp in its roll-on roll-off operations and exclusive use of a storage area and warehouse owned by West Indian at rates published in West Indian's tariff, with a minimum guaranteed annual wharfage fee.

Dated: September 16, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12580; Filed, Sept. 21, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP71-58]

CASCADE NATURAL GAS CORP.

Notice of Application

SEPTEMBER 14, 1970.

Take notice that on September 8, 1970, Cascade Natural Gas Corp. (applicant), 222 Fairview Avenue North, Seattle, Wash. 98109, filed in Docket No. CP71-58 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity seeking authorization to transport quantities of natural gas to Rocky Mountain Natural Gas Co., Inc. (Rocky Mountain), for the account of Colorado Interstate Gas Co. (CIG) in partial performance of applicant's obligation under a three-party natural gas exchange agreement dated August 24, 1970, among Mountain Fuel Supply Co. (Mountain Fuel), CIG, and applicant,

all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant requests authority to deliver up to 10,000 Mcf per day of natural gas purchased and gathered in the Divide Creek Field to Rocky Mountain for CIG's account during the period from October 1, 1970, through March 31, 1971. Applicant's deliveries to Mountain Fuel at Bonanza, Utah, will be reduced on a daily basis by a volume equal to that delivered to Rocky Mountain. CIG will make compensating deliveries on a daily basis to Mountain Fuel for applicant's account at a point in Sweetwater County, Wyo.

In order to deliver up to 10,000 Mcf of natural gas per day to Rocky Mountain, applicant requests authority to enlarge an existing meter station and modify certain other minor facilities in the Divide Creek Field. Applicant states that it will be reimbursed by CIG for the cost of these modifications.

Applicant states that it will receive from CIG 5 cents per Mcf for all natural gas delivered to Rocky Mountain for CIG's account, with a minimum payment of $45,000, as compensation for services rendered during the term of the exchange.

Applicant states that, according to information supplied by CIG, Rocky Mountain is in critical need of additional gas supplies during the 1970–71 winter season. CIG has agreed to sell natural gas to Rocky Mountain. However, the pipeline systems of CIG and Rocky Mountain do not intersect. The proposed exchange among CIG, Mountain Fuel, and applicant will effectuate the sale of natural gas between CIG and Rocky Mountain.

CIG, on August 28, 1970, in Docket No. CP71–47 filed a complementary application requesting authorization to sell natural gas to Rocky Mountain and to exchange gas among CIG, Mountain Fuel and applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 6, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–12519; Filed, Sept. 21, 1970; 8:45 a.m.]

[Project No. 1417]

CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

Notice of Application for Approval of Exhibit R (Recreation Use Plan) for Constructed Project

SEPTEMBER 14, 1970.

Public notice is hereby given that application for approval of Exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by The Central Nebraska Public Power and Irrigation District (correspondence to: R. D. Dirmeyer, General Manager, The Central Nebraska Public Power and Irrigation District, Post Office Box 356, Holdredge, Nebr. 68949) for constructed Project No. 1417, known as the Kingsley Project, located on North Platte and Platte River, in Dawson, Gosper, Keith, and Lincoln Counties, Nebr., near the city of North Platte.

According to the Exhibit R, the Nebraska Game and Parks Commission leases 5,000 acres around Lake McConaughy and Lake Ogallala and controls their recreational use and development. Facilities listed at Lake McConaughy are: (1) Six constructed boat ramps; (2) seven boat launching areas without boat ramps (sandy beaches suitable for boat launching); (3) six hiking areas; (4) five commercial areas supplying food services, trailer parks, boating facilities, etc.; (5) cabin lots for lease, and (6) a 2,500-acre waterflow sanctuary. Lake Ogallala is located adjacent to Lake McConaughy and the exhibit states that it is being developed as the primary camping and picnicking area.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest 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. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70–12520; Filed, Sept. 21, 1970; 8:45 a.m.]

[Docket No. CP61–19]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

SEPTEMBER 11, 1970.

Take notice that on September 1, 1970, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP61–19 a petition to amend the order of the Commission issued on March 16, 1961, to authorize additional sale of nautral gas to Rio Grande Natural Gas Association (Association), as hereinafter described, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that by order issued March 16, 1961, in Docket No. CP61–19, the Commission authorized applicant, inter alia, to sell and deliver natural gas to Rio Grande Gas Co., predecessor in interest of Association. Applicant states that it was advised by Association in April of 1970 that Association would extend its pipeline system approximately 30.3 miles to a point of termination near the village of Hatch, Dona Ana County, N. Mex. (Hatch), thus providing service to the Village of Hatch as well as service to an estimated 70 to 100 new individual consumers. Applicant states that it made formal contractual agreements in May 1970 to supply to Association the additional gas.

Specifically, applicant requests amendment of the aforementioned order so as to authorize the additional sale and delivery of natural gas to Association for resale to consumers situated along the route of the proposed pipeline extension of Association's system and for resale by Association to Hatch.

Applicant states that the third year total estimated annual and peak day natural gas requirements of Association, including the additional quantities required for the new service, and including resale service by Association to Hatch, aggregate 593,679 Mcf and 5,518 Mcf, respectively.

Applicant states that the proposed sale and delivery will provide Association and its customers, including Hatch, with a long-term natural gas supply necessary to satisfy the firm and interruptible requirements of consumers located in this area, where heretofore, natural gas has not been available.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 5, 1970, file with the Federal Power Commission, Washington, D.C.

20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12521; Filed, Sept. 21, 1970; 8:45 a.m.]

[Docket No. CP71-54]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

SEPTEMBER 11, 1970.

Take notice that on September 3, 1970, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP 71-54 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing applicant to transport for exchange for a minimum term of 4 years an average daily quantity of 60,000 Mcf of natural gas under a gas exchange agreement among Natural Gas Pipeline Company of America (Natural), Phillips Petroleum Co. (Phillips) and applicant dated July 17, 1970, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that applicant will deliver gas to Natural in Hansford County, Tex., which Natural will redeliver to Phillips in Gray County, Tex. Phillips in turn will deliver an equivalent volume to applicant at the outlet of Phillips' Sherman Plant in Hansford County, Tex. Applicant states that the exchange is on an equivalent thermal content basis, that applicant will be compensated for gas usage and other costs incurred as a result of the exchange transaction, and that there will be no new facilities required as a result of this application.

The exchange agreement recites that the purpose of the exchange is to obtain mutual benefits and operating efficiencies for Natural, Phillips, and applicant.

Natural on August 31, 1970 in Dockets Nos. CP71-50 and CP69-31 filed its application for authorization to exchange natural gas with Phillips and applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12523; Filed, Sept. 21, 1970; 8:45 a.m.]

[Docket No. CP71-57]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 14, 1970.

Take notice that on September 8, 1970, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP71-57 an application pursuant to section 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the abandonment, replacement and the upgrading of its sales measuring station in Carver County, Minn., all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to authority granted by the Commission's order issued April 6, 1943, in Docket No. G-280, Applicant has operated two sales measuring station facilities in the vicinity of the town of Chaska, Minn., called TBS No. 1 and TBS No. 2 used to measure and deliver volumes of natural gas to the community of Chaska and to the American Crystal Sugar Co. plant, respectively. Applicant states that these facilities are old and that it is desirable that they be replaced to achieve more accurate measurement and to provide delivery capacity to accommodate the higher certificated volumes resulting from load growth.

Applicant proposes to abandon TBS No. 1 and TBS No. 2 and to construct and operate a new TBS No. 1 at the same location with capacity to measure and deliver the volumes formerly delivered through both TBS No. 1 and TBS No. 2.

Applicant states that the cost of this proposal is $56,180 which will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 6, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12524; Filed, Sept. 21, 1970; 8:45 a.m.]

[Docket No. CP71-55]

SOUTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 11, 1970.

Take notice that Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP71-55 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain measuring facilities located on Applicant's Cranfield-Brookhaven pipeline in Lincoln County, Miss., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon facilities used for the sale of gas to the Marshall R. Young Oil Co. (Marshall Young), pursuant to a contract dated January 17, 1967. Marshall

Young has used the gas so purchased in gas lifting operations at the West Lincoln Field in Lincoln County, Miss.

Applicant states that the above-mentioned contract was canceled by letter agreement dated July 30, 1970, and that service through the facilities which Applicant herein proposes to abandon was discontinued on July 1, 1970.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12525; Filed, Sept. 21, 1970; 8:45 a.m.]

[Docket No. CP71-56]

UNITED GAS PIPE LINE CO.

Notice of Application

SEPTEMBER 14, 1970.

Take notice that on September 3, 1970, United Gas Pipe Line Co. (Applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP71-56 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the following:

(A) Facilities used to serve United Gas, Inc., formerly United Gas Distribution Co., consisting of approximately 13,716 feet of 4-inch pipe, which will be abandoned and sold to United Gas, Inc., and a positive meter and regulator station which Applicant will abandon and remove. These facilities are located at Diboll, Angelina County, Tex.;

(B) Facilities used to serve Temple Industries, Inc., formerly Southern Pine Lumber Co., consisting of approximately 5,096 feet of 4-inch pipe, which will be abandoned in place, and a turbine meter and regulator station which will be abandoned and removed. These facilities are located at Diboll, Angelina County, Tex.;

(C) Facilities used to serve Max H. English, an individual, formerly Clarence Barmore and later W. B. Logan, consisting of a positive meter and regulator station which will be abandoned and removed. These facilities are located at Mobil Oil Co.'s Lisbon Camp in Claiborne Parish, La.; and

(D) Service to La Gloria Oil & Gas Co. (La Gloria), Tyler, Smith County, Tex., which was rendered through the same measuring station serving United Gas, Inc., at City Gate No. 1, Tyler, Tex. The gas was further transported and measured to La Gloria through facilities owned and operated by United Gas, Inc.; all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the above-described facilities have been utilized directly in connection with service to the above named customers and in the operation of Applicant's pipeline system. The Applicant requests permission to abandon because of changes in the service contracts. Applicant states that if the Commission permits the proposed abandonment, then

(1) Applicant will supply natural gas to United Gas, Inc. at the town of Diboll, Tex., pursuant to a new service contract through a new meter and regulator station to be constructed by the customer near the Applicant's main pipeline;

(2) Applicant will cease service to Temple Industries, Inc. pursuant to Temple's letter of January 21, 1970, advising that it had contracted elsewhere for supplies of gas;

(3) Applicant will cease service to Max H. English since, pursuant to his letter of October 8, 1969, all of his customers have moved and therefore service is no longer required; and

(4) Applicant will cease service to La Gloria Oil and Gas Co. since the service contract terminated on January 1, 1970.

Applicant further states that the abandonment and removal will not affect service to any of Applicant's remaining customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12526; Filed, Sept. 21, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by BancOhio Corp., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of up to 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank at East Palestine, East Palestine, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into

consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

By order of the Board of Governors, September 14, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12554; Filed, Sept. 21, 1970; 8:48 a.m.]

BANK OF DELAWARE

Order Approving Merger of Banks

In the matter of the application of Bank of Delaware, Wilmington, Del., for approval of merger with Millsboro Trust Co., Millsboro, Del.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Bank of Delaware, Wilmington, Del., for the Board's prior approval of the merger with Millsboro Trust Co., Millsboro, Del., under the charter and name of Bank of Delaware. As an incident to the merger, the sole office of Millsboro Trust Co. would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published as required by said Act.

In accordance with the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Bank of Delaware (deposits $232 million) is the third largest of 19 commercial banks in Delaware, and controls about 19 percent of total deposits in the State. (All banking data are as of Dec. 13, 1969.) Millsboro Trust Co. (deposits $10 million) is the only bank in Millsboro (population 1,000), and the fifth largest of six banks competing in southeast Sussex County. The nearest office of Bank of Delaware is 20 miles from Millsboro Trust Co., and no significant competition exists between the two banks. While Bank of Delaware is permitted by State law to branch into the area served by Millsboro Trust Co., such de novo entry is considered unlikely because of the size of the community, and the number of banks presently serving that market. The substitution of an aggressive, full-service bank for a relatively small, unit bank would likely increase competition in southeast Sussex County, without undue adverse effects on competing banks.

Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. Considerations relating to the financial and managerial resources and future prospects of both of the proponents are regarded as satisfactory. The merger would have no significant effect on customers presently served by Bank of Delaware, and will make possible expansion and improvement of banking and trust services offered by Millsboro Trust Co.; the greater lending ability of the merged bank would assist in meeting the expanding credit needs of the area, which is now undergoing economic development. It is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved: *Provided,* That the merger so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Philadelphia pursuant to delegated authority.

By order of the Board of Governors,[1] September 14, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12552; Filed, Sept. 21, 1970; 8:48 a.m.]

FIRST HOLDING CO., INC.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of First Holding Co., Inc., Waukesha, Wis., for approval of acquisition of 80 percent or more of the voting shares of First National Bank of Oconomowoc, Oconomowoc, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Holding Company, Inc., Waukesha, Wis., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of First National Bank of Oconomowoc, Oconomowoc, Wis.

As required by section 3(b) of the Act, the Board notified the Comptroller of the Currency of receipt of the application and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on May 29, 1970 (35 F.R. 8459), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors, September 14, 1970.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12553; Filed, Sept. 21, 1970; 8:48 a.m.]

[1] Voting for this action: Acting Chairman Mitchell and Governors Daane, Maisel, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Brimmer.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago. Dissenting Statement of Governors Robertson, Maisel, and Brimmer also filed as part of the original documents and available upon request.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sherrill. Voting against this action: Governors Robertson, Maisel, and Brimmer.

GENERAL SERVICES ADMINISTRATION

[Federal Procurement Regs., Temporary Reg. 19]

HEADS OF FEDERAL AGENCIES

Equal Opportunity in Employment

1. *Purpose.* This regulation amends Subpart 1–12.8 of the Federal Procurement Regulations to prescribe new and revised procedures.

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

3. *Expiration date.* This regulation will remain in effect until canceled.

4. *Background.* The Secretary of Labor on June 16, 1970, amended 41 CFR 60–1 (35 F.R. 10660, July 1, 1970), as follows: Revoked paragraph (d) of § 60–1.6, Duties of agencies; revised subparagraph (b)(1) of § 60–1.7, Reports and other required information; and revised paragraph (d) of § 60–1.20, Compliance reviews.

5. *Explanation of changes.* Pending the issuance of a permanent amendment, the Federal Procurement Regulations are amended as follows:

a. Section 1–12.805–1(d) is canceled.

b.(1) Each agency (in addition to the representation prescribed in § 1–12.805–4 (b)(1)) shall require each bidder or prospective prime contractor (and proposed subcontractor where appropriate) to state in the bid, or in writing at the outset of negotiations for the contract, whether he has developed and has on file at each establishment affirmative action programs pursuant to the rules and regulations of the Secretary of Labor (41 CFR 60–1 and 60–2). The statement shall be in the form of a representation by the bidder or offeror substantially as follows:

The bidder (or offeror) represents that (1) he [ ] has developed and has on file [ ] has not developed and does not have on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60–1 and 60–2), or (2) he [ ] has not previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

(2) The representation prescribed by paragraph 5b(1) shall be added to the representations and certifications on Standard Forms 19–B, Representations and Certifications (Construction Contract), and 33, Solicitation, Offer, and Award.

c. Section 1–12.803–9 is revised to read as follows:

Section 1–12.803–9 *Notice to bidders regarding preaward equal opportunity compliance reviews.* The following notice (see § 1–12.805–5(d)) shall be included in the invitation for bids or request for proposals for each nonconstruction contract (advertised or negotiated) which may result in an award of $1 million or more:

PREAWARD EQUAL OPPORTUNITY COMPLIANCE REVIEWS

Where the bid (or offer) of the apparent low responsible bidder (or offeror) is in the amount of $1 million or more, the bidder (or offeror) and his known first-tier subcontractors which will be awarded subcontracts of $1 million or more will be subject to full, preaward equal opportunity compliance reviews before the award of the contract for the purpose of determining whether the bidder (or offeror) and his subcontractors are able to comply with the provisions of the Equal Opportunity clause.

d. Section 1–12.805–5(d) is revised to read as follows:

Section 1–12.805–5 *Compliance reviews.* * * *

(d) Before the award of any nonconstruction contract (advertised or negotiated) which may result in an award of $1 million or more, a preaward compliance review of the prospective contractor and his known first-tier subcontractors which will be awarded subcontracts of $1 million or more must be conducted by the compliance agency within 12 months prior to the award of the contract. If an agency other than the awarding agency is the compliance agency, the awarding agency shall notify the compliance agency and request appropriate action and findings in accordance with this paragraph (b). Compliance agencies shall provide awarding agencies with written reports of compliance reviews within 30 days following the requests. In order to qualify for the award of a contract, a contractor and such first-tier subcontractors must be found to be in compliance with the Equal Opportunity clause pursuant to 41 CFR 60–1.7(b) and 41 CFR 60–2 of the rules and regulations of the Secretary of Labor (see § 1–12.803–9 regarding the notice required to be included in nonconstruction contracts which may result in awards of $1 million or more).

Dated: September 15, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–12528; Filed, Sept. 21, 1970; 8:46 a.m.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

[Docket No. 10108]

NORTH AMERICAN COAL CORP.

Hearing on Petition for Reconsideration of Permit for Noncompliance With Interim Mandatory Respirable Dust Standard

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given of the filing by The North American Coal Corp. of the following described petition:

The affected coal mine is Conemaugh No. 1 Mine, USBM ID No. 36 00928 0; address—Seward, Indiana County, Pa.

The affected working sections are: KISKI MAINS, ID No. 001; KISKI MAINS, ID No. 002; NEW MAINS, ID No. 003; and NEW MAINS, ID No. 004.

The relief sought is the changing of permit No. 10108–D–1 dated June 30, 1970, to entitle the Permittee to maintain the average concentration of respirable dust in the atmosphere of those working sections at a level higher than that specified in that permit, but in no event at a level higher than 4.5 milligrams of respirable dust per cubic meter of air.

Notice is hereby given that a hearing will be held on the above-described petition at 10 a.m. on September 29, 1970, in the offices of the Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006, before the undersigned as presiding officer. The hearing will be conducted pursuant to 30 CFR Part 505 (35 F.R. 11296, July 15,1970). A copy of the petition and of the file are available for inspection in the office of the Correspondence Control Officer in the offices of the Interim Compliance Panel. A copy of the petition is also available for inspection at the office of the affected coal mine.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

SEPTEMBER 17, 1970.

[F.R. Doc. 70–12668; Filed, Sept. 21, 1970; 8:50 a.m.]

OFFICE OF MANAGEMENT AND BUDGET

REPORT ON UTILIZATION OF ADVISORY COMMITTEE

Notice of Availability

In compliance with the provisions of Executive Order No. 11007, dated February 26, 1962, the Office of Management and Budget has prepared a report containing a list of all advisory committees utilized by the Office during fiscal year 1970, including the names and affiliations of their members, a description of the function of each committee, and a statement of the dates of any meetings.

This report is available at the Administrative Services Office, Office of Management and Budget, Executive Office Building, Washington, D.C. 20503.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[F.R. Doc. 70–12566; Filed, Sept. 21, 1970; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812–2781]

GOLDMAN, SACHS & CO.

Notice of Application for Exemption

SEPTEMBER 15, 1970.

Notice is hereby given that Goldman, Sachs & Co. (Applicant), 55 Broad Street, New York, N.Y. 10004, a limited partnership, has filed an application pursuant to section 9(b) of the Investment Company Act of 1940 (Act), for an order of the Commission exempting Applicant and its general partners, agents, servants, and employees from the provisions of section 9(a) of the Act insofar as any ineligibility to serve or act in the capacities enumerated in section 9(a) of the Act arises out of an injunction entered in connection with an action entitled Securities and Exchange Commission v. Madison Square Garden Corporation, et al. (U.S. District Court for the Southern District of New York, Civil Action No. 69–4364) (the Roosevelt Proceeding). All interested persons are referred to the application on file with the Commission for a statement of the representations therein.

Applicant is registered with the Commission as a broker and dealer in securities pursuant to section 15(b)(1) of the

Securities Exchange Act of 1934 (the 1934 Act) and as an investment adviser pursuant to section 203(c) of the Investment Advisers Act of 1940.

On October 6, 1969, the Commission filed a complaint in the Roosevelt Proceeding, naming as defendants Madison Square Garden Corp. (Madison), Eastern International Corp. (Eastern), a wholly owned subsidiary of Madison, Applicant, and Harbill Associates. The complaint arose out of the following circumstances: On September 22, 1969, G & W Land and Development Corp. (now known as Transnation Development Corp. and hereinafter referred to as Transnation) announced its intention to make a tender offer at $46.50 per share for 400,000 of the approximately 1,300,000 outstanding shares of common stock of Roosevelt Raceway, Inc. (Roosevelt). At that time, Eastern held 348,200 shares of Roosevelt. Madison had previously announced its intention to acquire 100 percent ownership of the business and assets of Roosevelt. The Transnation offer was published on September 25. On September 26, Madison issued a press release in which, among other things, it reaffirmed its previously announced intention to acquire 100 percent ownership of Roosevelt. Madison stated that it was purchasing Roosevelt shares on the market and otherwise, that Applicant had informed Madison that it was purchasing Roosevelt shares for itself and certain clients, and that late on September 25 Madison and Applicant had concluded an agreement in principle under which Applicant and those clients, in consideration for their agreement to hold for 1 year up to 120,000 of the Roosevelt shares purchased by them, would have the option to require Madison to purchase in approximately 1 year up to 120,000 of such shares at a cash price of 120 percent of the cost of such shares or, in lieu thereof, to require Madison to issue Madison shares in exchange for such Roosevelt shares, with the number of Madison shares to be determined by dividing the cost of such Roosevelt shares by $7.50. Pursuant to that agreement, Applicant over the next 4 business days purchased 25,000 shares of Roosevelt common stock for its own account and 71,000 shares for the accounts of the investors participating with it. During the same period, Eastern and Harbill, at the direction of Madison, also purchased a large amount of Roosevelt stock. As a result of these purchases the market price of Roosevelt stock met or exceeded the tender offer price of Transnation during much of the period of the tender offer so that public investors in Roosevelt stock were dissuaded from selling their stock to Transnation.

In its complaint the Commission alleged that the conduct of defendants constituted directly or indirectly a solicitation and recommendation to the holders of the common stock of Roosevelt to reject the tender offer within the meaning of section 14(d)(4) of the 1934 Act and that neither Madison, Applicant, nor any of the other defendants had filed with the Commission a statement containing the information specified by the Schedule 14D of the rules and regulations under the 1934 Act. Second, the Commission alleged that defendants acted together as a partnership or syndicate in acquiring beneficially more than 10 percent of Roosevelt common stock within the meaning of section 13(d)(1) of the 1934 Act, and that they had not filed with the Commission a statement containing the information required by schedule 13D of the rules and regulations under the 1934 Act. Third, the Commission charged that the agreement between Applicant and Madison constituted an unlawful extension of credit and an unlawful arrangement for an extension of credit for a customer by a broker or dealer in violation of section 7(c) of the 1934 Act and of regulation T adopted by the Board of Governors of the Federal Reserve System. Finally, the Commission alleged that the acts of Applicant and the other defendants constituted a violation of sections 10(b) and 14(e) of the 1934 Act and Rule 10b–5 thereunder in that the agreements between Madison, Applicant, and Harbill and the resultant stock purchases of Roosevelt served to inflate artificially the market price of Roosevelt common stock and caused possible harm to public investors in Roosevelt common stock.

On April 29, 1970, a final judgment of permanent injunction against defendants was entered upon the consent of the Securities and Exchange Commission, Applicant, and the other defendants. The judgment declared void the agreement between Madison and Applicant and enjoined Applicant from any future agreements of that nature with respect to Roosevelt which were intended to inflate artificially the market price of securities issued by Roosevelt. The judgment also enjoined Applicant and the other defendants and "their officers, directors, general partners, agents, servants, and employees" from engaging in certain activities, including further violations of Regulation T, the filing requirements of sections 13 and 14 of the 1934 Act and the provisions of sections 10(b) and 14(e) of the 1934 Act and Rule 10b–5 thereunder, in connection with the purchase or sale of any security issued by Roosevelt Raceway, Inc. It further decreed that defendants must comply with the reporting requirements of sections 13 and 14 of the 1934 Act with respect to the securities already purchased by them. Further, the Court ordered Applicant to tender to Transnation those Roosevelt shares which it had purchased pursuant to its agreement with Madison if in the future Transnation should make a tender offer for Roosevelt shares at a price equal to or exceeding the average cost to Applicant of each Roosevelt share it had purchased. In the event shares tendered by Applicant were not accepted or if there was no subsequent tender offer, Applicant was ordered to dispose of its Roosevelt shares within a specified time period and donate its profits, if any, on the sales to charity. With respect to Roosevelt shares owned by clients of Applicant after the termination of a new tender offer, if any, by Transnation, the Court imposed an extensive set of conditions designed to insure their eventual sale and specifically required Applicant to donate to charity any profits made in handling such transactions.

Section 9(a)(2) of the Act makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, to serve or act in the capacity of officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company.

Applicant represents that it expects to act as an investment adviser of the Fund A Partnership, a registered investment company formed by Arthur Andersen & Co. as a means of investment for partners, participating principals and overseas representatives of Arthur Andersen & Co. Further, the following general partners of Goldman Sachs held the indicated positions with the following registered investment companies, Arthur G. Altschul, Chairman of the Board and Director, General American Investors Co., Inc.; Henry H. Fowler, Director, U.S. & Foreign Securities Corp.; and Stanley R. Miller, President and Director, Transatlantic Fund, Inc. All of these positions were resigned by the individuals concerned subsequent to the entering of the judgment of permanent injunction. These individuals may be expected to resume their positions with the respective investment companies if an order is entered granting the application.

Section 9(b) of the Act provides that any person who is ineligible by reason of subsection (a) to serve or act in the capacities enumerated therein may file with the Commission an application for an exemption from the provisions of that subsection and further provides that the Commission shall by order grant such application, either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of subsection (a), as applied to such persons, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicant submits that for the following reasons:

(i) The limited nature of the matters covered by the Consent Decree in relation to the matters specified in section 9(a)(2) of the Act and the purposes of section 9(a) of the Act;

(ii) The fact that the allegations of the Commission's complaint in the Roosevelt Proceeding involved novel questions of law with respect to which no precedent existed;

(iii) The fact that Applicant consulted with counsel in connection with its activities giving rise to the allegations in such complaint and acted upon the advice of such counsel that its proposed activities would not contravene either the credit or the reporting re-

quirements of the 1934 Act and the rules and regulations thereunder;

(iv) The fact that the Consent Decree was entered with the consent of the defendants in the Roosevelt Proceeding for the purposes of that action only, without admitting the material allegations of the complaint and without consenting to the adjudication of any wrongdoing or liability, and with the agreement of the Commission that it would not be used as the basis for the institution of proceedings by the Commission pursuant to section 15(b) of the 1934 Act or section 203(b) of the Investment Advisers Act of 1940 against any defendant, any person associated with any defendant or any broker-dealer or investment adviser with which such person may be associated;

(v) The fact that at no time prior to entry of the Consent Decree referred to above has Applicant, by reason of any misconduct, been permanently or temporarily enjoined by order, judgment, or decree of any court from acting as an underwriter, broker, dealer, or investment adviser, or as an affiliated person, salesman, or employee of any investment company, or from engaging in or continuing any conduct on or practice in connection with any such activity or in connection with the purchase or sale of any security; and

(vi) The fact that Applicant has taken all steps required by said Consent Decree to be taken by it up to this time and intends to comply with all further requirements thereof;

the prohibitions of section 9(a) of the Act, if applicable by reason of the above-mentioned final judgment, would be unduly and disproportionately severe if applied to Applicant or any of its general partners, agents, servants and employees and asserts that it is consistent with the public interest and the protection of investors and the purposes fairly intended by the policy and provisions of section 9 of the Act for the Commission to enter an order granting this application for an exemption from the provisions of section 9(a) of the Act.

Notice is further given that any interested person may, not later than September 28, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–12527; Filed, Sept. 21, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 17, 1970.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42048—*Liquid caustic soda to specified points in Kansas.* Filed by O. W. South, Jr., agent (No. A6196), for interested rail carriers. Rates on soda, caustic, liquid, in tank carloads, as described in the application, from Geismar, Baton Rouge, and North Baton Rouge, La., to Kansas City, Mo.-Kans., and Tecumseh, Kans.

Grounds for relief—Market competition.

Tariff—Supplement 52 to Southern Freight Association, agent, tariff ICC S–838.

FSA No. 42049—*Potassium (Potash) from Evans City, Alabama.* Filed by O. W. South, Jr., agent (No. A6197), for interested rail carriers. Rates on potassium (potash), caustic, in tank carloads, as described in the application, from Evans City, Ala., to Chicago, Chicago Heights, Joliet, and La Salle, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 91 to Southern Freight Association, agent, tariff ICC S–800.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70–12559; Filed, Sept. 21, 1970; 8:48 a.m.]

[Notice 152]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 15, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 406 TA), filed September 10, 1970. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office 160, ZIP 53141, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Early warning traffic safety system*, from Napa, Calif., to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Casell Co. Inc., 1785 Tanen Street, Napa, Calif. 94558 (Jack G. Monroe, Vice President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 71642 (Sub-No. 12 TA), filed September 10, 1970. Applicant: N. S. DE SHONG, 3201 Mill Creek Road, Wilmington, Del. 19808. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemically hardened fiber*, for account of NVF Co., from Yorklyn, Del., to Hazelwood, N.C., for 180 days. Supporting shipper: NVF Co., Wilmington, Del. 19899; Douglas Barding, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 76032 (Sub-No. 263 TA), filed September 10, 1970. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: John T. Coon (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, serving Cochiti Dam Site near Albu-

querque, N. Mex., as an off-route point in connection with carrier's regular-route authority, for 180 days. NOTE: Applicant does intend to tack its existing authority at Albuquerque, N. Mex., and will interline with all other carriers at Albuquerque, N. Mex. Supporting shipper: Guy F. Atkinson Co., 10 West Orange Avenue, South San Francisco, Calif. 94080. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 117686 (Sub-No. 118 TA), filed September 8, 1970. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Post Office Box 417, Sioux City, Iowa 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and coconuts and pineapples* when transported in mixed shipments with bananas; (1) from New Orleans, La., to points in Kansas, Missouri, North Dakota, and Wisconsin; (2) from Gulfport, Miss., to points in Wisconsin; and (3) from Galveston, Tex., to points in Wisconsin, for 180 days. Supporting shippers: Chiquita Brands, Inc., 321 St. Charles Avenue, New Orleans, La. 70130; Standard Fruit & Steamship Co., International Trade Mart, Post Office Box 50830, New Orleans, La. 70150. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 126881 (Sub-No. 10 TA), filed September 10, 1970. Applicant: RICHARD B. RUDY, INC., 203 Linden Avenue, Frederick, Md. 21701. Applicant's representative: Charles E. Creager, Suite 523, 816 Easely Street, Silver Spring, Md. 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies*, used in the preparation, sale, and distribution of food, foodstuffs, dessert, and dairy products, from points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia, to Laurel and Frederick, Md., for 180 days. Supporting shipper: Capitol Milk Producers Cooperative, Inc., 428 East Patrick Street, Frederick, Md. 21701. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 134831 (Sub-No. 2 TA), filed September 10, 1970. Applicant: JAMES ENTERPRISES, INC., Route 4, International Drive, Statesville, N.C. 28677. Applicant's representatives: Williams, Morris and Golding, Post Office Box 7316, Asheville, N.C. 28807. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal, fish and poultry feed, insecticides, and animal medicines*, from Charlotte, N.C., to points in South Carolina, under continuing contract with Ralston Purina Co., St. Louis, Mo., for 150 days. Supporting shipper: Ralston Purina Co., St. Louis, Mo. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 134853 (Sub-No. 1 TA), filed September 10, 1970. Applicant: CHARLES M. WILSON AND RICHARD R. REEVES, doing business as W-R TRUCKING CO., 9003 Weathervane Garth, Baltimore, Md. 21234. Applicant's representative: Harold P. Boss, 1100 Seventeenth Street, NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty cylinders*, used for propane or LP gas, between the plantsites and facilities of Cyl-Con, Inc., at or near Catonsville, Md., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, Virginia, and the District of Columbia, points in that part of Pennsylvania on and east U.S. Highway 119 extending from the West Virginia-Pennsylvania State line (near Point Marion, Pa.) to junction U.S. Highway 219 (near Du Bois, Pa.) and on and east of U.S. Highway 219 extending from said junction to the Pennsylvania-New York State line, and points in that part of West Virginia on and east of U.S. Highway 19. Limited to a service to be performed under a continuing contract or contracts with Cyl-Con., Inc., for 120 days. Supporting shipper: Cyl-Con, Inc., 1014 Leslie Avenue, Catonsville, Md. 21228. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 134911 TA, filed September 8, 1970. Applicant: KENNETH H. THOMAS, doing business as THOMAS TRUCKING COMPANY, Rural Route 3, St. Joseph, Mo. 64506. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gravel and sand*, in bulk in dump vehicles, from the plant of Hollidary Sand & Gravel Co., St. Joseph, Mo., to points in Atchison, Brown, Doniphan, and Nemaha Counties, Kans., for 180 days. Supporting shipper: Hollidary Sand & Gravel Co., 6811 West 63d Street, Overland Park, Kans. 66202. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 134913 TA, filed September 9, 1970. Applicant: CARLESI BROS. TRUCK RENTAL, INC., 543 Acushnet Avenue, New Bedford, Mass. 02740. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lining fabrics and materials and supplies* used in the manufacture thereof between Pawtucket, R.I., on the one hand, and, on the other, points in Arkansas, Illinois, Florida, New York, North Carolina, and Wisconsin, for 180 days. Supporting shipper: Harry Ball & Son Inc., 87 Sabin Street, Pawtucket, R.I. 02860. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, R.I. 02903.

No. MC 134914 TA, filed September 9, 1970. Applicant: MOROSA BROS. TRANSPORTATION CO., 3831 Pierce Road, Bakersfield, Calif. 93308. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pozzolan*, in bulk, between points in California. Restriction: The authority sought herein is to be restricted to traffic having an immediate prior movement by railroad, for 180 days. Supporting shipper: Western Chemical & Manufacturing Co., 3270 East Washington Boulevard, Los Angeles, Calif. 90023. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12560; Filed, Sept. 21, 1970; 8:48 a.m.]

[Notice 153]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 17, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4405 (Sub-No. 481TA), filed September 11, 1970. Applicant: DEALERS TRANSIT, INC., 7701 South Lawndale Avenue, Chicago, Ill. 60652. Applicant's representative: R. O. Homberger (same address as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Air pollution control equipment including but not limited to dust collecting machinery and parts thereof, scrubbers and pneumatic conveying systems and related parts*, from Essex, Mass., to points in the United States, excluding Alaska and Hawaii, for 180 days. Supporting shipper: R. F. Cox Associates, Inc., Western Avenue, Essex, Mass. 01929. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 7381 (Sub-No. 14 TA), filed September 11, 1970. Applicant: WEBB's TRANSFER, INC., 219–225 Johnson Ave., Post Office Box 1189, Suffolk, Va. 23434. Applicant's representative: J. C. Webb, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. *Soaps, cleansers, inedible grease, and fat products;* from Portsmouth, Va., to points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin; (2) *soda ash, caustic soda* (both liquid and dry), *sodium phosphate* (dry), *sodium silicates* (both liquid and dry), *silica* (dry), *synthetic detergents* (both liquid and dry), *salt, glues, cartons, bottles, drums* (metal and fiber), *cans* (metal, plastic, and paper), *metals used to manufacture cans, paper, chipboard, both multiwall paper and cloth bags, pallets, plastic wrapping, twine, tape, labels, strapping, and equipment used in the manufacture of soap and soap products*, from the above-destination points to Portsmouth, Va., for 180 days. Supporting shipper: Murro Chemical Co., Inc., Post Office Box 7182, Portsmouth, Va. 23707. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

No. MC 16672 (Sub-No. 13 TA), filed September 11, 1970. Applicant: McGUIRE LUMBER AND SUPPLY, INC., Wylliesburg, Va. 23976. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and skids*, made of wood, from Chase City, Va., to Washington, D.C., and points in Maryland, Delaware, Pennsylvania, New Jersey, New York, and Connecticut, for 180 days. Supporting shipper: The South Side Supply Co., Inc., Post Office Box 466, Chase City, Va. 23924. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 106398 (Sub-No. 493 TA), filed September 11, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movement, in truckaway service, from the plantsite of the New Royalty Homes, Inc., near La Follette, Tenn., to points in South Carolina, Georgia, Kentucky, North Carolina, and Ohio, for 180 days. Supporting shipper: The New Royalty Homes, Inc., Post Office Box 1315, La Follette, Tenn. 37766. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 107295 (Sub-No. 436 TA), filed September 8, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced or finished, with decorative and/or protective materials, and accessories and supplies used in the installation thereof* (except commodities in bulk), from points in Hanover County, Va., to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, Wisconsin, Alabama, Connecticut, Delaware, District of Columbia, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and West Virginia, for 180 days. Supporting shipper: Evans Products Co., 2200 East Devon Avenue, Des Plaines, Ill. 60018. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 114211 (Sub-No. 143 TA), filed September 11, 1970. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, ZIP 50701, Waterloo, Iowa 50704. Applicant's representative: Robert J. Molinaro (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except tractors with vehicle beds, bed frames, or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipment, snowmobiles, equipment designed for use in connection with tractors, trailers designed for the transportation of the commodities described above* (except trailers designed to be drawn by passenger automobiles), *attachments for the commodities described above, internal combustion engines, and parts and accessories of the commodities*, described herein above when moving in mixed loads with such commodities, from ports of entry on the international boundary between the United States and Canada at Detroit and Port Huron, Mich., and Buffalo and Niagara Falls, N.Y., to points in the United States except Alaska and Hawaii. Restriction: Restricted to shipments originating at the plant and warehouse sites and experimental farms of Massey-Ferguson Industries, Ltd., at Toronto, Brantford, and Milliken, Ontario, for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 114486 (Sub-No. 22 TA), filed September 11, 1970. Applicant: AUTREY F. JAMES, doing business as A. F. JAMES TRUCK LINE, 107 Lelia Street, Texarkana, Tex. 75501. Applicant's representative: Donald R. Partney, 35 Glenmere Drive, Little Rock, Ark. 72204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products and fittings and jointing materials therefor*, from the plantsite of W. S. Dickey Clay Manufacturing Co., approximately 4 miles from Greenwood, Ala., to job site of Virginia Light & Power Co., at or near Mount Storm, W. Va., for 150 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: W. S. Dickey Clay Manufacturing Co., Post Office Box 13125, Kansas City, Mo. 64199. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Comemrce Commisison, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 119777 (Sub-No. 190 TA), filed September 11, 1970. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: William G. Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, insulation board, paneling, shelving, moulding, display cases, doors, and door assemblies*, from Wright City and Union, Mo., to points in the United States, for 180 days. Supporting shipper: Dan A. Gaw, Truck Traffic Supervisor, Permaneer Corp., 145 Weldon Parkway, Maryland Heights, Mo. 63043. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 134886 (Sub-No. 1 TA), filed September 10, 1970. Applicant: U & ME TRANSFER, INC., 2626 Electronic Way, West Palm Beach, Fla. 33407. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Miami, Fla. 33155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between all points in Dade, Broward, Indian River, Martin, Palm Beach, and St. Lucie Counties, Fla., for 180 days. Supporting shippers: Denver Wholesale Florists Co., 4800 Dahlia Street, Denver, Colo. 80201; ITT Semiconductors, Electronics Way, West Palm Beach, Fla.; RCA Information Systems Division, Palm Beach Gardens, West Palm Beach, Fla. 33403; Solitron Devices, Inc., 1177 Blue Heron Boulevard,

Riviera Beach, Fla.; Airlift International, Inc., Post Office Box 535, Miami, Fla. 33148; Novo Air Freight, 2626 Electronics Way, West Palm Beach, Fla. 33401. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, Fla. 33155.

No. MC 134902 (Sub-No. 1 TA), filed September 8, 1970. Applicant: LARAIN CORPORATION, 2007 West Gardenia Drive, Phoenix, Ariz. 85021. Applicant's representative: Richard Minne, Suite 609, Luhrs Building, Central and Jefferson, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, as defined by the Commission in Ex Parte MC-45, and *ice cream mix*, from Glendale, Ariz., to points in Los Angeles County, Calif.; Gallup, Albuquerque, and Silver City, N. Mex., and to El Paso, Tex., and return. (2) *Ice cream*, from Silver City, N. Mex., and El Paso, Tex., to Glendale, Ariz.; *cartons, empty containers, and milk cases*, from Albuquerque and Gallup, N. Mex., to Glendale, Ariz., and *cartons* for dairy products packaging from points in Los Angeles County, Calif., to Glendale, Ariz. (3) *juices, citrus, and fruit*, natural and artificial, plain, concentrated and frozen, between Glendale, Ariz., on the one hand, and points in Los Angeles County, Calif.; Gallup, Albuquerque, and Silver City, N. Mex., and El Paso, Tex., on the other, for 180 days. Supporting shipper: Associated Dairy Products Co., 5440 West Maryland, Glendale, Ariz. 85301. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 200 North First Avenue, Phoenix, Ariz. 85025.

No. MC 134745 (Sub-No. 3 TA), filed September 11, 1970. Applicant: E. N. CURTIS AND C. C. CURTIS, a partnership, doing business as CURTIS BROTHERS TRUCKING COMPANY, Route 6, Box 221 E, Falmouth, Va. 22401. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, bark, wooden stakes, and props, saw dust, and shavings*, from Fredricksburg, Va., and points in Caroline, King George, and Spotsylvania Counties, Va., to points in New York, Ohio, West Virginia, Delaware and those points in New Jersey north of Camden and Burlington Counties, for 180 days. Supporting shipper: Virginia Baled Shavings, Inc., Milford, Va. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12561; Filed, Sept. 21, 1970; 8:48 a.m.]

[Notice 589]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 15, 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 pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72183. By order of September 9, 1970, the Motor Carrier Board approved the transfer to Cassways Trucking Corporation, Garwood, N.J., of the operating rights in certificate No. 128129 issued November 15, 1966, to Sandi Trucking Co., Inc., Elizabeth, N.J., authorizing the transportation of general commodities, with exceptions, between points in Essex, Union, Monmouth, and Middlesex Counties, N.J., on the one hand, and, on the other, New York, N.Y. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-72184. By order of September 9, 1970, the Motor Carrier Board approved the transfer to Sandi Trucking Co., Inc., Elizabeth, N.J., of the operating rights in certificate No. MC-127163 issued October 7, 1968, to Louis Mauro, Summit, N.J., authorizing the transportation of specified commodities from, to and between specified points in New Jersey, Pennsylvania, Connecticut, and New York. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-72243. By order of September 11, 1970, the Motor Carrier Board approved the transfer to Elmer McNich and Arthur W. Ward, a partnership, doing business as Northeast Kansas Bus Service, Topeka, Kans., of the operating rights in certificate No. MC-134240, issued May 12, 1970, to Eugene Bechtold and E. L. McNish, a partnership, doing business as Northeast Kansas Lines, Hiawatha, Kans., authorizing the transportation of passengers and their baggage, and express, mail, and newspapers, when transported in the same vehicle with passengers and their baggage between Horton, Kans., and Topeka, Kans., serving all intermediate points that are on the rail lines of the Chicago, Rock Island & Pacific Railroad Co., and between Hiawatha, Kans., and Horton, Kans. Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12562; Filed, Sept. 21, 1970; 8:49 a.m.]

[Notice 590]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 16, 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 pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72358. By order of September 11, 1970, the Motor Carrier Board approved the transfer to Benny Schaller, doing business as Schaller Truck Line, 2 North Dakota Street, Aberdeen, S. Dak. 57401, of certificate No. MC-120387 (Sub-No. 1), issued to Mark R. Reis, doing business as Reis Truck Line, 7 North Jackson Street, Aberdeen, S. Dak. 57401, authorizing the transportation of: General commodities between specified points in South Dakota.

No. MC-FC-72363. By order of September 11, 1970, the Motor Carrier Board approved the transfer to Huntington Moving & Storage Co., a corporation, Huntington, W. Va., of certificates Nos. MC-107360 and MC-107360 (Sub-No. 1) issued to Charles C. Ritchie and Paul C. Ritchie, doing business as Goode Transfer Co., Mullens, W. Va., authorizing the transportation of Household goods, as defined by the Commission, between points in Wyoming County, W. Va., on the one hand, and, on the other, points in New Jersey, New York, Tennessee, North Carolina, South Carolina, Delaware, Virginia, West Virginia, Kentucky, Ohio, Pennsylvania, Maryland, and the District of Columbia. Martin Sterenbuch, 1120 Connecticut Avenue NW., Washington, D.C. 20036, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12563; Filed, Sept. 21, 1970; 8:49 a.m.]

[Notice 591]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 17, 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 pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72347. By order of September 15, 1970, the Motor Carrier Board approved the transfer to Lloyd D. Mitchell, doing business as Mitchell's Transfer, Minot, N. Dak., of a portion of Certificate No. MC–103435 (Sub-No. 66) issued to United Buckingham Freight Lines, Inc., Littleton, Colo., authorizing the transportation of: General commodities, with the usual exceptions, between Watford City, N. Dak., and Minot, N. Dak., over specified regular routes, serving all intermediate points and the off-route point of Wabek, N. Dak. Harris P. Kenner, attorney, 615 South Broadway, Minot, N. Dak.

No. MC–FC–72352. By order of September 15, 1970, the Motor Carrier Board approved the transfer to Don J. Revell, Russell, Kans., of the corrected certificate of registration in No. MC–58315 (Sub-No. 1) issued March 25, 1966, to Wheels Trucking, Inc., Hays, Kans., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Kansas, corresponding in scope to certificate of convenience and necessity Route No. 1928 dated November 29, 1943, transferred by order dated March 3, 1965, by the State Corporation Commission of the State of Kansas. Rex L. Culley, Woelk and Culley, Banker Building, Eighth and Main, Russell, Kans. 67665, attorney for applicants.

No. MC–FC–72362. By order of September 15, 1970, the Motor Carrier Board approved the transfer to Star Moving & Storage, Inc., Laramie, Wyo., of the certificate of registration in No. MC–121512 issued October 19, 1967, to Amzi J. Warren and Barbara Alice Warren, a partnership, doing business as Star Transfer & Storage Co., Laramie, Wyo., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Wyoming, corresponding in scope to the service authorized in certificate of public convenience and necessity No. 253, issued June 29, 1962, and reissued November 2, 1966, and currently renewed, by The Public Service Commission of the State of Wyoming. Ward A. White, Post Office Box 568, Cheyenne, Wyo. 82001, attorney for applicants.

ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12564; Filed, Sept. 21, 1970; 8:49 a.m.]

[Notice 591A]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 17, 1970.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–72397. By application filed September 15, 1970, PELICAN TRUCK LINE, INC., Jena-Nebo Highway South, Post Office Box 156, Jena, La. 71342, seeks temporary authority to lease the operating rights of PELICAN TRUCKING CO., INC., 1600 Wells Island Road, Post Office Box 7127, Shreveport, La. 71107, under section 210(a)(b). The transfer to PELICAN TRUCK LINE, INC., of the operating rights of PELICAN TRUCKING CO., INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12565; Filed, Sept. 21, 1970; 8:49 a.m.]

[No. 35303]

NEW JERSEY INTRASTATE FREIGHT RATES AND CHARGES, 1970

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 10th day of September 1970.

By joint petition filed July 22, 1970, pursuant to section 13 and 15a(2) of the Interstate Commerce Act, Black River & Western Corp., The Central Railroad Company of New Jersey (John E. Farrell, Trustee), East Jersey Railroad and Terminal Co., Erie-Lackawanna Railway Co., Hoboken Shore Railroad, The Lehigh and Hudson River Railway Co., Lehigh Valley Railroad Co., Morristown & Erie Railroad Co., Mount Hope Mineral Railroad Co., The New York and Long Branch Railroad Co., New York, Susquehanna, and Western Railroad Co., Penn Central Transportation Co., Pennsylvania and Atlantic Railroad Co. (South Hightstown, New Jersey to Pemberton, New Jersey, Inc.; The Union Transportation Co., Lessee), Pennsylanvia-Reading Seashore Lines, Rahway Valley Railroad (Rahway Valley Co., Lessee), Raritan River Rail Road Co., Reading Co., The Staten Island Rapid Transit Railway Co., Trenton-Princeton Traction Co., and Wharton and Northern Railroad Co., carriers by railroad operating within the State of New Jersey, request authority to increase freight rates and charges on intrastate traffic moving within the State of New Jersey corresponding to the increases maintained by petitioners on interstate commerce as authorized by this Commission in Ex Parte No. 265, Increased Freight Rates, 1970 (final order pending);

It appearing, that petitioners allege that the present intrastate freight rates and charges for transportation within the State of New Jersey are abnormally low and the traffic moving thereunder fails to produce its fair share of earnings sufficient to enable petitioners to provide adequate and efficient transportation service, depriving them of needed revenue to meet increased operating costs, causing an undue burden on and unjust discrimination against interstate commerce, and giving undue and unreasonable advantage to intrastate shippers and subjecting interstate shippers of the same traffic to undue and unreasonable prejudice and disadvantage to the extent the said intrastate rates and charges are less than they would be under the Ex Parte No. 265 interstate level; thus, petitioners request an investigation, under sections 13 and 15a(2) of the Interstate Commerce Act, of the New Jersey intrastate rates and charges on freight traffic and an order removing the alleged unlawfulness;

And it further appearing, that there has been brought in issue by the said petition matters sufficient to require an investigation of the intrastate freight rates and charges within the State of New Jersey;

Wherefore, and good cause appearing:

It is ordered, That the petition be, and it is hereby, granted, and that an investigation be, and it is hereby, instituted under section 13 of the Interstate Commerce Act to determine whether the said rates and charges of carriers by railroad, or any of them, operating in the State of New Jersey, for the intrastate transportation of property made or imposed by authority of the State of New Jersey, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those permitted by this Commission for interstate transportation in Ex Parte 265, Increased Freight Rates, 1970, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or locations in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable or unjust discrimination against, or undue burden on, interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum, rates and charges shall be prescribed to remove the unlawful advantage, preference, prejudice, discrimination, or undue burden, if any, that may be found to exist.

It is further ordered, That all persons who wish to participate actively in this proceeding and to file and to receive copies of pleadings shall make known that fact by notifying the Commission in writing on or before October 26, 1970. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentation to the greatest extent possible.

It is further ordered, That as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Secretary will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That all carriers by railroad operating within the State of New Jersey, subject to the jurisdiction of this Commission, be, and they are

hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents, and that the State of New Jersey be notified of the proceeding by sending copies of this order and of said petition by certified mail to the Governor of the State of New Jersey, Trenton, N.J., and to the Board of Public Utility Commissioners of New Jersey at Trenton, 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 by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

And it is further ordered, That this proceeding be assigned for hearing as may hereafter be designated.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12558; Filed, Sept. 21, 1970; 8:48 a.m.]

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