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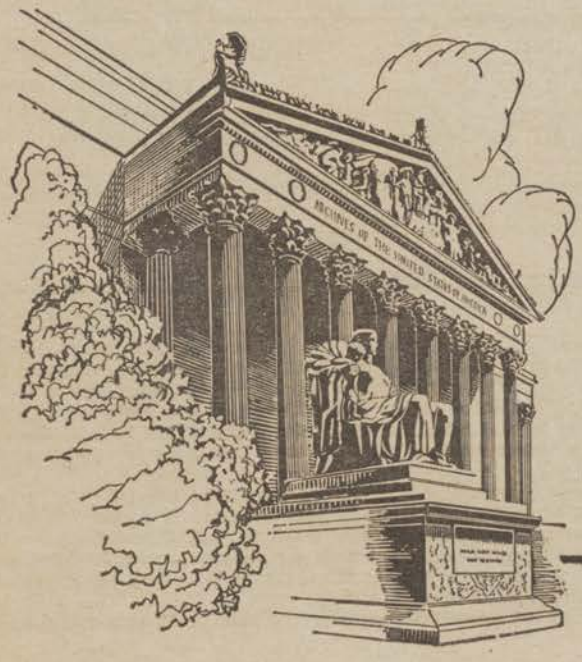

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Selective Service System

Section 213.3346 is amended to show that one position of Private Secretary to the Public Information Officer is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (4–30–71), paragraph (c) is added to § 213.3346 as set out below.

§ 213.3346 Selective Service System.

* * * * *

(c) One Private Secretary to the Public Information Officer.

(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.

[FR Doc.71–6038 Filed 4–29–71;8:47 am]

Title 7—AGRICULTURE

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

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[Amdt. 1]

PART 894—HAWAII

Miscellaneous Amendments

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 894 (32 F.R. 8882) is amended as follows:

1. Paragraph (d) of § 894.1 is revised and new paragraphs (l) and (m) are added.

§ 894.1 Regulations, as effective, and definitions.

* * * * *

(d) "State Executive Director" means the person responsible for the day-to-day operations of the Agricultural Stabilization and Conservation State Office (herein referred to as ASCS State Office) or any employee of such office authorized to act on his behalf.

* * * * *

(l) "State Committee" means the persons in the State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(m) "County Committee" means the persons elected within a county as the County Committee pursuant to regulations governing the selection and function of Agricultural Stabilization and Conservation County and Community Committees, under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

2. § 894.5 is revised to read as follows:

§ 894.5 Determination of eligibility and basis for payment, review, and changes in determination, appeals for review thereof, and appeals for review of proportionate shares when such shares are in effect.

The finality provisions of section 306 of the Act apply to determinations made in conformity with the regulations in this § 894.5. Compliance with the conditions prescribed by the Act and regulations for any payment authorized under title III of the Act, the facts constituting the basis for any such payment, and the amount thereof, shall be determined by the county committee, any such determination to be subject to redetermination initiated by the county committee and to review initiated by the State committee and to approval or redetermination by the State committee. Any determination by the State committee shall be subject to redetermination initiated by the State committee and to review initiated by the Deputy Administrator and to approval or redetermination by the Deputy Administrator. Determinations and redeterminations by the county committee, the State committee or the Deputy Administrator shall be made and decided in accordance with the applicable provisions of the Act and regulations issued by the Secretary thereunder and on the facts in the individual case. The producers on the farm with respect to which such a determination or redetermination is made shall be promptly notified in writing of the substance and meaning of the determination or redetermination, the amounts of any payments and any reduction in payments which are determined; and that the producer may obtain reconsideration or review of the determination or redetermination and an informal hearing in connection therewith, by filing a written request within 15 days from the date of mailing of such written notification. The written notification also shall state where the request for reconsideration or review should be filed and where further information in regard to appeal procedure and the hearing may be obtained. The provisions apprising producers of their rights to request reconsideration or appeal from determinations affecting their eligibility for or the amount of payments under the Act, and the procedure to follow in such instances including time limitations for filing requests for reconsideration and appeals are contained in Chapter VII, Part 780 of this title. The procedures applicable to claims for unpaid wages are provided for under regulations pertaining thereto, as issued by the Secretary, and contained in Part 866 of this chapter.

3. § 894.6 is revised to read as follows:

§ 894.6 Obtaining information regarding eligibility for payment.

Where it is necessary to obtain information to assist the county committee in determining compliance with the conditions prescribed by the Act and regulations for any payment authorized under title III of the Act, the facts constituting the basis for any such payment or the amount thereof, or to assist the State committee or the Deputy Administrator in reviewing upon appeal, or upon their own initiative, any such determination by the county committee, any such information with respect to acreage or compliance shall be obtained to the extent possible as provided in the applicable provisions of Part 718 of Chapter VII of this title, as amended. In the absence of a provision in such Part 718 of this title for obtaining any such information, any employee of the ASCS county office or employees of the ASCS State office designated respectively by the county executive director or by the State Executive Director to be qualified to perform such a duty may obtain such information.

4. § 894.9 is revised to read as follows:

§ 894.9 Filing application for payment.

(a) *Form to be used.* Applications for payments authorized under title III of the Act with respect to sugar commercially recoverable from sugarcane grown on a farm, as well as for acreage abandonment and crop deficiency payments, shall be made on Form SU–180.

(b) *Person eligible to apply for payment.* The producer on the farm or his legal representative, must sign and file the form in the ASCS county office or with a representative of such office.

(c) *Closing date for filing.* Form SU–180 must be filed with respect to a crop of sugarcane no later than December 31 of the second calendar year following the year designating the crop. The producers shall be notified by the ASCS county office of the place and time the forms are available for signing.

(d) *Exception to closing date requirement.* An application may be filed after the closing date if the State committee determines that the applicant was prevented from filing by such date because of illness or other reason beyond his control.

(e) *Person eligible to receive payment.* Payment shall be made to a producer of the sugarcane in accordance with the provisions of section 304(d) of the Act. In the event of the death, disappearance,

or incompetency of the producer, payment shall be made to the beneficiary designated in the application for payment by the producer, or if no such beneficiary is named, to the producer's legal representative or his heirs as determined by the county committee.

(f) *Assignments.* Sugar Act payments may not be assigned.

(g) *Receivers.* A sugar Act payment may not be made to a receiver.

STATEMENT OF BASES AND CONSIDERATIONS

In accordance with administrative regulations published on April 10, 1971 (36 F.R. 6887, 6907) making county and State committees generally responsible for administering the sugar program in Hawaii, this amendment provides that the Hawaii county and State committees shall determine producer eligibility to receive Sugar Act payments and make other related sugar program operating determinations. Heretofore, these functions were performed by the State Executive Director.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the applicable provisions of the Act.

(Secs. 301, 304, 306, 403, 61 Stat. 929, as amended, 931, 932; 7 U.S.C. 1131, 1134, 1136, 1153)

Effective date. Date of publication (4–30–71).

Signed at Washington, D.C., on: April 23, 1971.

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

[FR Doc.71–6043 Filed 4–29–71;8:47 am]

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

[Milk Order No. 63]

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

Order Terminating Certain Provisions

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Quad Cities-Dubuque marketing area.

It is hereby found and determined that the following provisions of the order no longer tends to effectuate the declared policy of the Act:

In § 1063.52(a)(3), the provision "During the period November 1, 1970, through April 1971,".

With such termination, § 1063.52(a)(3) would read as follows:

§ 1063.52 Location adjustment to handlers.

(a) * * *

(3) At a plant located within the Des Moines, Iowa, marketing area, add any amount by which the price specified in § 1063.50(b) is less than the applicable Class I price at the same location pursuant to Part 1079 of this chapter regulating the handling of milk in the Des Moines, Iowa, marketing area.

* * * * *

Statement of consideration. The termination was requested by a handler regulated by the Des Moines, Iowa, order, and it was supported by all producer representatives and most handlers at a hearing held at Moline, Ill., on April 13, 1971. The hearing was called to consider, among other things, proposed amendments to the Class I price provisions of the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, milk orders.

This termination will continue, beyond April 30, 1971, an amendment to the Quad Cities-Dubuque order which became effective November 1, 1970 (35 F.R. 16848). The amendment provided that the Class I price at a plant regulated by the Quad Cities-Dubuque order and located in the Des Moines marketing area would not be less than the Class I price applicable at a plant similarly located and regulated by the Des Moines order.

If this termination action is not taken, the plant regulated by the Quad Cities-Dubuque order could, on May 1, 1971, acquire an advantage of 15 cents per hundredweight of Class I milk over the petitioning handler whose plant is regulated by the Des Moines order, and other handlers similarly situated, with whom the Quad Cities handler competes.

Furthermore, with a Class I price that is significantly below the Class I price of the Des Moines order, it is not reasonable to expect producers to continue to deliver milk to the Quad Cities-Dubuque regulated plant while higher prices are available to them at plants similarly located.

The foregoing marketing situation was one of several issues considered at the hearing held on April 13, 1971. This termination will assure that orderly marketing conditions can be maintained until a decision is formulated, at an early date, based on the testimony and evidence presented at the aforesaid hearing.

It is hereby found and determined that notice of proposed rule making, public procedure thereon and 30 days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it is the only practical means of continuing the appropriate competitive price level needed to assure that a supply of milk for fluid use will be delivered to a Quad Cities-Dubuque order regulated plant located in Des Moines, Iowa; and

(b) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby terminated.

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

Effective date. Upon publication in the FEDERAL REGISTER (4–30–71).

Signed at Washington, D.C., on April 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–6084 Filed 4–29–71;8:51 am]

[Milk Order Nos. 121, 126, 127, 128, 129, 130 and 120; Docket No. AO–364–A3, etc.]

MILK IN SOUTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

CFR part	Market	Docket No.
1120	Lubbock-Plainview	AO–328–A11.
1121	South Texas	AO–364–A3.
1126	North Texas	AO–231–A35.
1127	San Antonio	AO–232–A21.
1128	Central West Texas	AO–238–A24.
1129	Austin-Waco	AO–256–A17.
1130	Corpus-Christi	AO–259–A21.

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 respective 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; and

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than May 1, 1971. 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 on February 8, 1971, (36 F.R. 2916) and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 19, 1971. 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 May 1, 1971, 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 sec. 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;

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

(4) The issuance of the order amending the Austin-Waco order is approved or favored by at least three-fourths 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 each of the aforesaid 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, as follows:

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS, MARKETING AREA

§ 1120.12 [Amended]

1. In the text of § 1120.12(b) the reference to § 1120.17(a)(2) is changed to § 1120.17(c)(2).

1a. In § 1120.44 paragraph (d)(3)(iii) is revised as follows:

§ 1120.44 Transfers.

* * * * *

(d) * * *

(3) * * *

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants and other order plants) 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 all remaining Class I utilization (including transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

* * * * *

2. In § 1120.46(a) subparagraphs (1) and (3) (iv) are revised in subparagraph (4) subdivision (i) and the introduction language of subdivision (ii) are revised, and subparagraph (6) and (7)(i) are revised.

§ 1120.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk classified:

(i) From 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) From Class II the pounds of skim milk classified as Class II pursuant to § 1120.41(b)(6)(i) through (iii);

* * * * *

(3) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

(4) * * *

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1)(i) or (3)(iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II:

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1)(i) or (3)(iv) of this paragraph and subdivision (i) of this subparagraph which are in excess of the pounds of skim milk determined as follows:

* * * * *

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

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i), (3)(iv), (4)(i) or (ii) of this paragraph;

* * * * *

3. Section 1120.50(a) is revised as follows:

§ 1120.50 Basic formula and class prices.

(a) *Class I price.* The minimum Class I milk price shall be the basic formula price for the preceding month plus $2.22 and plus 20 cents. 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, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

4. Section 1120.61(d)(2) is revised as follows:

§ 1120.61 Plants subject to other Federal orders.

* * * * *

(d) * * *

(2) Compute the value of the quantity 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.

5. In § 1120.62 paragraph (a) is revised and in paragraph (b) subparagraphs (2) and (5) are revised.

§ 1120.62 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1120.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1120.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1120.70(e) and the credit specified in § 1120.82(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1120.12(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1120.30 (b) and 1120.31 similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) of this paragraph applies to such plant.

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location or the Class II price, whichever is higher and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

6. Section 1120.70(e) is revised as follows:

§ 1120.70 Computation of the net pool obligation of each pool handler.

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1120.46(a)(7) and the corresponding step of § 1120.46(b) (excluding 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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

7. Section 1120.71(a) is revised as follows:

§ 1120.71 Computation of aggregate value used to determine uniform price(s).

* * * * *

(a) Combine into one total the values computed pursuant to § 1120.70 for all pool handlers who made the reports prescribed in § 1120.30(a) for the month and who have made the payments required pursuant to § 1120.82 for the preceding month;

* * * * *

8. Section 1120.86 is revised as follows:

§ 1120.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, except a cooperative association in its capacity as a handler pursuant to § 1120.17(c)(2), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production) and milk received from a cooperative association as a handler pursuant to § 1120.17(c)(2); (b) other source milk allocated to Class I pursuant to § 1120.46 (a) (3) and (7) and the corresponding steps of § 1120.46(b), except other source milk on which no handler obligation applies pursuant to § 1120.70(e); and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1120.62(b)(2): *Provided,* That if a handler elects pursuant to § 1120.34 to use two accounting periods in any month the applicable rate of assessment for such handler shall be the rate set forth above multiplied by 2 or such lesser rates as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period.

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

1. In § 1121.44 paragraph (c)(3)(iii) is revised as follows:

§ 1121.44 Transfers.

* * * * *

(c) * * *

(3) * * *

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants and other order plants) 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 all remaining Class I utilization (including transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

* * * * *

2. In § 1121.46(a) subparagraphs (1) and (4)(iv) are revised, the introductory

text of subparagraph (5) (i) is revised, and subparagraphs (7) and (8) are revised as follows:

§ 1121.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk classified:

(i) From 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) From the total pounds of skim milk in Class II milk the pounds of skim milk classified as Class II milk pursuant to § 1121.41(b)(8);

* * * * *

(4) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

* * * * *

(5) * * *

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraph (1)(i) or (4)(iv) of this paragraph;

* * * * *

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (1)(i), (4)(iv), or (5)(i) of this paragraph;

* * * * *

3. In § 1121.60 paragraphs (c) and (e)(2) are revised as follows:

§ 1121.60 Plants subject to other Federal orders.

* * * * *

(c) A plant meeting the requirements of § 1121.10(b) which also meets the pooling requirements of another Federal order, and either qualifies as a fully regulated distributing plant under such other Federal order subject to paragraphs (a) and (b) of this section, or from such plant greater qualifying shipments are made as a supply plant during the month to plants regulated under such other order than are made to plants regulated under this part, except that this paragraph shall not apply during the months of January through August if such plant retains automatic pooling status under this part pursuant to § 1121.10(b)(2).

* * * * *

(e) * * *

(2) Compute the value of the quantity 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.

4. In § 1121.61 paragraph (a) is revised and in paragraph (b) subparagraphs (2) and (5) are revised as follows:

§ 1121.61 Obligation of a handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1121.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1121.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1121.70(e) and the credit specified in § 1121.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1121.10(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1121.30 and 1121.31 similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) applies to such plant.

* * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location or the Class II price, whichever is higher, and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

5. Section 1121.70(e) is revised as follows:

§ 1121.70 Computation of the net pool obligation of each pool handler.

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1121.46(a)(8) and the corresponding step of § 1121.46(b) (excluding

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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

6. Section 1121.71(a) is revised as follows:

§ 1121.71 Computation of aggregate value used to determine uniform price.

* * * * *

(a) Combine into one total the values computed pursuant to § 1121.70 for all handlers who have made the reports prescribed in § 1121.30 for the month and who have made the payments required pursuant to § 1121.84 for the preceding month;

* * * * *

7. Section 1121.86(b) is revised as follows:

§ 1121.86 Adjustment of accounts.

* * * * *

(b) *Overdue accounts.* The unpaid obligation of a handler pursuant to §§ 1121.61, 1121.84, 1121.87, 1121.88 or paragraph (a)(1) of this section shall be increased three-fourths of 1 percent per month beginning on the first day after due date, and on each date of subsequent months following the day on which such type of obligation is normally due: *Provided,* That—

(1) The amounts payable pursuant to this paragraph shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this paragraph; and

(2) For the purpose of this paragraph any unpaid obligation that was determined at a date later than that previously prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

8. Section 1121.88 is revised as follows:

§ 1121.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1121.14(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1121.46(a)(4) and (8) and the corresponding steps of § 1121.46(b) except other source milk on which no handler obligation applies pursuant to § 1121.70(e); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1121.61(b)(2).

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

1. In § 1126.12(c) the last sentence should be revised to read as follows:

§ 1126.12 Handler.

* * * * *

(c) * * * For the purpose of location adjustments such milk shall be considered to have been received by the cooperative association at the location of the pool plant to which it is delivered.

* * * * *

2. In § 1126.12(d), the last sentence should be revised to read as follows:

§ 1126.12 Handler.

* * * * *

(d) * * * The cooperative association shall be considered the handler for such milk, effective the first day of the month following receipt of such notice, and milk so delivered shall be considered for purposes of location adjustments to have been received by such cooperative association at the location of the pool plant to which it is delivered.

* * * * *

2a. In § 1126.13(a) subparagraphs (1) and (2) are revised as follows:

§ 1126.13 Producer.

(a) * * *

(1) Received at a pool plant, including milk of a dairy farmer delivered to the pool plant by a cooperative as a handler pursuant to § 1126.12 (c) or (d).

(2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1126.14.

2b. Section 1126.14 is revised as follows:

§ 1126.14 Producer milk.

"Producer milk" of a handler operating a pool plant means only that skim milk and butterfat contained in milk described in paragraphs (a) and (b) of this section, and producer milk of a cooperative association as a handler pursuant to § 1126.12 (b), (c), and (d) means milk described in subparagraphs (c) and (d) of this section:

(a) Milk received from producers at a pool plant except that for which a cooperative association is the handler pursuant to § 1126.12 (c) and (d);

(b) Milk of a producer diverted by the operator of a pool plant to a nonpool plant for his account, subject to the conditions of paragraph (e) of this section;

(c) Milk of a producer diverted by a cooperative association from the pool plant of another handler (or the pool plant of the cooperative) to a nonpool plant for the account of such cooperative association subject to the conditions of paragraph (e) of this section;

(d) Milk received from a producer by a cooperative association as a handler pursuant to § 1126.12 (c) or (d); and

(e) With respect to milk diverted to nonpool plants, milk diverted in excess of the limit specified herein shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the diverting handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler.

(1) A cooperative association may divert for its account a total quantity of producer milk equal to not more than one-third of the total producer milk of its members physically received at all pool plants during the month.

(2) A handler, other than a cooperative association, operating a pool plant(s) may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity equal to not more than one-third of the milk physically received at such handler's pool plant(s) during the month from producers who are not members of such a cooperative association.

(3) Diverted milk shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted.

(f) Milk shall be eligible for diversion as producer milk only if the person producing such milk has been delivering milk as producer milk to a pool plant on a regular basis prior to the diversion.

3. Section 1126.30 *Reports of receipts and utilization* is revised to read as follows:

§ 1126.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler, except a producer-handler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) The quantities of skim milk and butterfat contained in receipts of producer milk;

(2) The quantities of skim milk and butterfat contained in receipts of fluid milk products from other pool plants and separately the quantities of skim milk and butterfat contained in receipts of milk from a cooperative association pursuant to § 1126.12 (c) or (d);

(3) The quantities of skim milk and butterfat contained in other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(6) The disposition of fluid milk products on routes wholly outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk; and

(7) Such other information with respect to receipts and utilization as the marketing administrator may prescribe.

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1126.12 (b), (c), or (d):

(1) Receipts of skim milk and butterfat from producers;

(2) The quantities delivered to each pool plant and to each nonpool plant;

(3) The utilization of all milk delivered to each pool plant and to each nonpool plant; and

(4) Such other information as the market administrator may require.

(c) Each handler operating a partially regulated distributing plant shall report as required by paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing Class I disposition on routes in the marketing area of each of the following: skim milk and butterfat, respectively, in fluid milk products and the quantity thereof which is reconstituted skim milk.

4. In § 1126.41(b) subparagraphs (5) and (7) are revised and new subparagraphs (9) and (10) are added as follows:

§ 1126.41 Classes of utilization.

* * * * *

(b) * * *

(5) In actual shrinkage at each pool plant and on producer milk diverted by the handler operating the pool plant, but not in excess of the following amount;

(i) Two percent of producer milk receipts; plus

(ii) 1.5 percent of receipts from a cooperative association as a handler pursuant to § 1126.12 (c) or (d), except that if the handler operating the pool plant files notice with the market administrator that he is accounting for such milk on the basis of the butterfat tests of farm drawn samples and farm weights determined by the cooperative association, the applicable percentage shall be 2 percent; plus

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

(iv) 1.5 percent of bulk fluid milk products received from other order plants, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) 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; less

(vi) 1.5 percent of bulk fluid milk products (except cream) disposed of to other milk plants, except that in the case of milk diverted to a nonpool plant, if the operator of the plant to which the milk is diverted accounts for such milk on the basis of the butterfat tests of farm drawn samples and farm weights, the applicable percentage shall be 2 percent.

* * * * *

(7) That portion of modified fluid milk products excluded from Class I pursuant to paragraph (a)(1) of this section, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added.

* * * * *

(9) In shrinkage of producer milk received by a cooperative association as a handler pursuant to § 1126.12 (b), (c), or (d), not to exceed 0.5 percent of such receipts, exclusive of receipts for which the plant operator receiving the milk from the cooperative accounts for it on the basis of farm weights determined by the cooperative association.

(10 In shrinkage of skim milk and butterfat, respectively, in other source milk assigned pursuant to § 1126.42(b)(2); and

* * * * *

5. In § 1126.42 paragraph (b)(1) is revised to read as follows:

§ 1126.42 Shrinkage.

* * * * *

(b) * * *

(1) Items specified in § 1126.41(b)(5); and

* * * * *

6. In § 1126.44 the introductory text of paragraph (a) is revised, paragraph (c) is deleted, in paragraph (d) the introductory text is revised and paragraph (3)(iii) is revised, paragraph (e) is revised and paragraph (f) is deleted.

§ 1126.44 Transfers.

* * * * *

(a) At the utilization indicated by the operators of both plants (or by the cooperative association and the operator of the transferee plant in the case of transfers from a cooperative association as a handler to a pool plant), otherwise as Class I milk if transferred in the form of fluid milk products from a pool plant or from a cooperative association as a handler pursuant to § 1126.12 (c) or (d) to the pool plant of another handler subject to the following conditions:

* * * * *

(c) [Reserved]

(d) As Class I milk, if transferred or diverted in the form of bulk fluid milk products 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 subparagraph 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:

* * * * *

(3) * * *

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

* * * * *

(e) In the case of bulk fluid milk products transferred from a nonpool plant described in paragraph (d) of this section to a second nonpool plant, that is neither an other order plant nor a producer-handler plant, such fluid milk products shall be classified according to the procedure described in paragraph (d) of this section;

* * * * *

(f) [Reserved]

* * * * *

7. In § 1126.46(a) subparagraph (1) is revised, in subparagraph (3) subdivision (iv) is revised, in subparagraph (4) subdivisions (i) and (ii) are revised, subparagraph (6) is revised and in subparagraph (7) subdivision (i) is revised as follows:

§ 1126.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk classified:

(i) From 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1126.41(b)(5);

* * * * *

(3) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

* * * * *

(4) * * *

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraphs (1)(i) and (3)(iv) of this paragraph, for which the handler requests Class II utilization but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants that

were not subtracted pursuant to subparagraphs (1)(i) and (3)(iv) of this paragraph and subdivision (i) of this subparagraph which are in excess of the pounds of skim milk determined as follows:

* * * * *

(6) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to subparagraph (1)(ii) of this paragraph.

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (1)(i), (3)(iv), and (4) (i) and (ii) of this paragraph;

* * * * *

8. In § 1126.51 paragraph (b)(2) is revised as follows:

§ 1126.51 Class prices.

* * * * *

(b) * * *

(2) The price per hundredweight, rounded to the nearest one-tenth cent, computed by adding 2 cents to the average of the daily prices per pound of cheese (f.o.b.) Wisconsin assembling points for "barrel cheese", carlots or trucklots, as reported by the Department during the month and multiplying the result by 8.4.

9. In § 1126.61 paragraph (e)(2) is amended as follows:

§ 1126.61 Plants subject to other Federal orders.

* * * * *

(e) * * *

(2) Compute the value of the quantity 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.

10. In § 1126.62 paragraph (a) is revised and in paragraph (b) subparagraphs (2) and (5) are revised as follows:

§ 1126.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1126.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1126.70(e) and the credit specified in § 1126.93(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1126.9 subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30 and 1126.31 similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) of this paragraph applies to such plant.

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant;

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) subtract its value at the uniform price applicable at such location (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

11. In § 1126.70 paragraphs (a) and (e) are revised as follows:

§ 1126.70 Computation of the net pool obligation of each handler.

* * * * *

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1126.46(c) by the applicable class prices (adjusted pursuant to §§ 1126.52 and 1126.53), and in the case of a cooperative association as a handler pursuant to § 1126.12 (b), (c), or (d) multiply the quantity of producer milk in each class as classified pursuant to § 1126.44 by the applicable class prices (adjusted pursuant to §§ 1126.52 and 1126.53);

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1126.46(a)(7) and the corresponding step of § 1126.46(b) (excluding 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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

12. Section 1126.95(b) is revised as follows:

§ 1126.95 Adjustment of accounts.

* * * * *

(b) *Overdue accounts.* Any unpaid obligation of a handler pursuant to §§ 1126.62, 1126.90, 1126.93, 1126.96, 1126.97 or paragraph (a) (1) or (3) of this section shall be increased three-fourths of 1 percent per month beginning on the first day after due date, and on each date of subsequent months following the day on which such type of obligation is normally due: *Provided,* That—

(1) The amounts payable pursuant to this paragraph shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this paragraph; and

(2) For the purpose of this paragraph any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

13. Section 1126.97 is revised as follows:

§ 1126.97 Expense of administration.

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

(a) Receipts from producers (including such handler's own production) except receipts by a cooperative association as a handler pursuant to § 1126.12 (c) and (d);

(b) Receipts from cooperative associations in their capacity as a handler pursuant to § 1126.12 (c) and (d);

(c) Other source milk allocated to Class I pursuant to § 1126.46(a) (3) and (7) and the corresponding steps of § 1126.46(b), except other source milk on which no handler obligation applies pursuant to § 1126.70(e); and

(d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1126.62 (b) (2).

PART 1127—MILK IN SAN ANTONIO, TEXAS, MARKETING AREA

1. In § 1127.41(b) a new subparagraph (5) is added as follows:

§ 1127.41 Classes of utilization.

* * * * *

(b) * * *

(5) In fluid milk products dumped by a handler after notification to and opportunity for verification by the market administrator.

* * * * *

2. In § 1127.44 paragraph (b) (3) (iii) is revised as follows:

§ 1127.44 Transfers.

* * * * *

(b) * * *

(3) * * *

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants and other order plants) 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 all remaining Class I utilization (including transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

* * * * *

3. In § 1127.46(a) subparagraphs (2) and (4) (iv) are revised, the introductory text of subparagraph (5) (i) is revised and subparagraphs (6) and (7) are revised as follows:

§ 1127.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk remaining in each 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) From Class II the pounds of skim milk classified as Class II pursuant to § 1127.41(b) (3) (i);

* * * * *

(4) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (2) (i) of this paragraph; and

* * * * *

(5) * * *

(i) Receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraph (2) (i) or (4) (iv) of this paragraph;

* * * * *

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (2) (ii) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraphs (2) (i), (4) (iv), or (5) (i) of this paragraph;

* * * * *

4. Section 1127.50 is revised as follows:

§ 1127.50 Minimum prices and basic formula price.

(a) Subject to the appropriate differentials computed pursuant to §§ 1127.53 and 1127.54 each handler shall pay in the manner set forth in §§ 1127.70 through 1127.86 for milk received at his pool plant from producers at not less than the prices per hundredweight set forth in §§ 1127.51 and 1127.52.

(b) *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, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

5. Section 1127 51 is revised as follows:

§ 1127.51 Class I milk.

The minimum Class I milk price shall be the basic formula price for the preceding month plus $2.54 and plus 20 cents.

6. Section 1127.52(b) is revised as follows:

§ 1127.52 Class II and Class II–A milk.

* * * * *

(b) *Class II–A milk.* The minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II–A milk shall be computed by adding 2 cents to the average of the daily prices per pound of cheese (f.o.b.) Wisconsin assembling points for "barrel cheese", carlots, or trucklots, as reported by the Department during the month and multiplying the result by 8.4, such result to be further adjusted to a 3.5 percent butterfat basis by subtracting five times the butterfat differential computed pursuant to § 1127.53(b), and rounding to the nearest full cent.

7. Section 1127.60(d) (2) is revised as follows:

§ 1127.60 Handlers subject to other Federal orders.

* * * * *

(d) * * *

(2) Compute the value of the quantity 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.

8. In § 1127.61 paragraphs (a) and (b) (2) and (5) are revised as follows:

§ 1127.61 Obligation of a handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1127.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1127.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1127.70(d) and the credit specified in § 1127.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1127.7 subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to § 1127.32 similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) of this paragraph applies to such plant.

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

9. Section 1127.70(d) is revised as follows:

§ 1127.70 Computation of the net pool obligation of each pool handler.

* * * * *

(d) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1127.46(a)(7) and the corresponding step of § 1127.46(b) (excluding 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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

10. Section 1127.71(a) is revised as follows:

§ 1127.71 Computation of uniform price.

* * * * *

(a) Combine into one total the values computed pursuant to § 1127.70 for all handlers who have made the reports prescribed by § 1127.30 for the month and who have made the payment required pursuant to § 1127.84 for the preceding month;

* * * * *

11. Section 1127.88 is revised as follows:

§ 1127.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 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) skim milk and butterfat received from producers (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1127.46 (a)(4) and (7) and the corresponding steps of § 1127.46(b), except other source milk on which no handler obligation applies pursuant to § 1127.70 (d), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in §1127.61 (b)(2).

PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

V. In Part 1128—Central West Texas:

1. In § 1128.7 the introductory text preceding paragraph (a) is revised as follows:

§ 1128.7 Approved plant.

"Approved plant" (or pool plant) means:

* * * * *

2. In § 1128.8 the introductory text preceding paragraph (a) is revised as follows:

§ 1128.8 Unapproved plant.

"Unapproved plant" (or nonpool plant) means any milk or filled milk receiving, manufacturing or processing plant other than an approved plant. The following categories of unapproved plant (or nonpool plant) are further defined as follows:

* * * * *

3. In § 1128.44 paragraph (d)(3)(iii) is revised as follows:

§ 1128.44 Transfers.

* * * * *

(d) * * *

(3) * * *

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants and other order plants) shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such unapproved plant and all remaining Class I utilization (including transfers of fluid milk products to pool plants and other order plants) shall be assigned pro

rata to unassigned receipts at such unapproved plant from all pool and other order plants; and

* * * * *

4. In § 1128.46(a) subparagraph (1) is revised, subparagraph (3)(iv) is revised, in subparagraph (4) the introductory language, subdivision (i) and the introductory text of subdivision (ii) are revised, subparagraph (6) is revised, in subparagraph (7) subdivision (i) is revised as follows:

§ 1128.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk classified:

(i) From 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) From the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1128.41(b)(3) (i) through (iii);

* * * * *

(3) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph; and

* * * * *

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II–A and Class II (beginning with Class II–A) but not in excess of such quantity or quantities;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1)(i) or (3)(iv) of this paragraph, for which the handler requests Class II or Class II–A utilization;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1)(i) or (3)(iv) of this paragraph and subdivision (i) of this subparagraph which are in excess of the pounds of skim milk determined as follows:

* * * * *

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

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all approved plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i), (3)(iv), (4)(i) or (ii) of this paragraph;

* * * * *

5. Section 1128.50 is revised as follows:

§ 1128.50 Basic formula and Class I milk price.

(a) *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, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

(b) *Class I milk price.* Subject to the provisions of §§ 1128.52 and 1128.53 the minimum Class I milk price per hundredweight for the month shall be the basic formula price for the preceding month plus $2.37 and plus 20 cents.

6. Section 1128.51(b) is revised as follows:

§ 1128.51 Class II and Class II–A milk.

* * * * *

(b) *Class II–A milk.* Subject to the provisions of § 1128.52, the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II–A milk shall be computed by adding 2 cents to the average of the daily prices paid per pound of cheese (f.o.b. Wisconsin assembling points for "barrel cheese", carlots, or trucklots, as reported by the Department during the month, multiplying the result by 8.4, such result to be further adjusted by subtracting 5 times the butterfat differential computed pursuant to § 1128.52(b).

7. Section 1128.61(e)(2) is revised as follows:

§ 1128.61 Plants subject to other Federal orders.

* * * * *

(e) * * *

(2) Compute the value of the quantity 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.

8. In § 1128.62 paragraphs (a) and (b) (2) and (5) are revised as follows:

§ 1128.62 Obligation of a handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1128.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1128.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1128.70(e) and the credit specified in § 1128.94(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1128.70(a)(2) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to § 1128.32(b) similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation for such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the

plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) of this paragraph applies to such plant.

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location or the Class II price, whichever is higher, and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

9. Section 1128.70(e) is revised as follows:

§ 1128.70 Computation of each handler's pool obligation.

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1128.46(a)(7) and the corresponding step of § 1128.46(b) (excluding 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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest unapproved plant(s) from which an equivalent volume was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

10. Section 1128.71(a) is revised as follows:

§ 1128.71 Computation of aggregate value used to determine uniform price.

* * * * *

(a) Combine into one total the values computed pursuant to § 1128.70 for all handlers who have made the reports prescribed in § 1128.30 and who have made the payments required pursuant to § 1128.94 for the preceding month;

* * * * *

11. Section 1128.98 is revised as follows:

§ 1128.98 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, except a cooperative in its capacity as a handler pursuant to § 1128.9(c), 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) and milk received from a cooperative association as a handler pursuant to § 1128.9(c); (b) other source milk allocated to Class I pursuant to § 1128.46(a) (3) and (7) and the corresponding steps of § 1128.46(b), except other source milk on which no handler obligation applies pursuant to § 1128.70(e); and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1128.62(b)(2).

PART 1129—MILK IN AUSTIN-WACO, TEXAS, MARKETING AREA

1. Section 1129.50 is revised as follows:

§ 1129.50 Basic formula and Class I milk price.

(a) *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, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

(b) *Class I milk price.* Subject to the provisions of §§ 1129.52 and 1129.53 the minimum Class I milk price per hundredweight for the month shall be the basic formula price for the preceeding month plus $2.50 and plus 20 cents.

2. In § 1129.51 paragraph (b) is revised as follows:

§ 1129.51 Class II milk.

* * * * *

(b) The price per hundredweight computed by adding 2 cents to the average of the daily prices paid per pound of cheese (f.o.b.) Wisconsin assembling points for "barrel cheese," carlots or trucklots, as reported by the Department during the month and multiplying the result by 8.4, such result to be further adjusted by subtracting 5 times the butterfat differential computed pursuant to § 1129.52(b).

PART 1130—MILK IN CORPUS CHRISTI, TEX., MARKETING AREA

1. In § 1130.44 paragraph (c)(3)(iii) is revised as follows:

§ 1130.44 Transfers.

* * * * *

(c) * * *

(3) * * *

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants an other order plants) 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 all remaining Class I utilization (including transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

* * * * *

2. In § 1130.46 paragraph (a) is revised as follows: subparagraph (1) is revised, in subparagraph (4) subdivision (iv) is revised, in subparagraph (5) the introductory text of subdivision (i) is revised and subparagraphs (7) and (8) are revised.

§ 1130.46 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk classified.

(i) From 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 this or any other Federal milk order is classified and priced as Class I and is not used as an offset on any other payment obligation under this or any other order;

(ii) From the total pounds of skim milk in Class III milk the pounds of skim milk classified as Class III milk pursuant to § 1130.41(c)(7);

* * * * *

(4) * * *

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1)(i) of this paragraph;

* * * * *

(5) * * *

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant, that were not subtracted pursuant to subparagraph (1)(i) or (4)(iv) of this paragraph;

* * * * *

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

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraphs (1)(i), (4)(iv) or (5)(i) of this paragraph;

* * * * *

3. A new § 1130.50 is added as follows:

§ 1130.50 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, adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than $4.33.

4. In § 1130.51 paragraph (a) is revised as follows:

§ 1130.51 Class prices.

* * * * *

(a) *Class I price.* The minimum Class I milk price shall be the basic formula price for the preceding month plus $2.87 and plus 20 cents.

* * * * *

5. Section 1130.60(e)(2) is revised as follows:

§ 1130.60 Plants subject to other Federal orders.

* * * * *

(e) * * *

(2) Compute the value of the quantity 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 III price) and subtract its value at the Class III price.

6. In § 1130.61 paragraphs (a) and (b) (2) and (5) are revised as follows:

§ 1130.61 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(a) The amount resulting from the following computations:

(1) Determine the obligation that would have been computed pursuant to § 1130.70 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Receipts at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Transfers from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated (to the extent possible) to receipts of the partially regulated distributing plant from pool plants and other order plants classified in the corresponding class pursuant to subdivision (i) of this subparagraph. Any such transfers remaining after the above allocation which are classified in Class I and on which an obligation is computed for the handler operating the partially regulated distributing plant pursuant to § 1130.70 shall be priced at the uniform price (or at the weighted average price) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant but not to be less than the lowest class price of the respective order, except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order.

(iii) If the operator of the partially regulated distributing plant so requests, in lieu of the obligation pursuant to § 1130.70(e) and the credit specified in § 1130.84(b)(2), the obligation for such handler shall include a similar obligation for each nonpool plant (not an other order plant) which serves as a supply plant for such partially regulated distributing plant by making shipments to such plant during the month equivalent to the requirements of § 1130.10(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1130.30 and 1130.31 similar reports for such nonpool supply plant;

(*b*) The operator of such nonpool supply 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 verification purposes; and

(*c*) The obligation for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the obligation computed pursuant to subparagraph (1) of this paragraph, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for Grade A milk received at the plant during the month from dairy farmers;

(ii) If subparagraph (1)(iii) of this paragraph applies, the gross payments by the operator of such nonpool supply plant for Grade A milk received at the plant during the month from dairy farmers; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of an unregulated supply plant if subparagraph (1)(iii) of this paragraph applies to such plant.

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As 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) 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 this or any other 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 under this or any other order;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) subtract its value at the uniform price applicable at such location or the Class III price, whichever is higher and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk as the Class III price.

7. Section 1130.70(e) is revised as follows:

§ 1130.70 Computation of the net pool obligation of each pool handler.

* * * * *

(e) With respect to skim milk and butterfat subtracted from Class I pursuant to § 1130.46(a)(8) and the corresponding step of § 1130.46(b) (excluding 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 handlers fully regulated under this or any other 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 under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, but in no event shall such adjustment result in a Class I price lower than the Class III price.

* * * * *

8. Section 1130.71(a) is revised as follows:

§ 1130.71 Computation of aggregate value used to determine uniform price.

* * * * *

(a) Combine into one total the values computed pursuant to § 1130.70 for all handlers who have made the reports prescribed in § 1130.30 for the month and who have made the payments required pursuant to § 1130.84 for the preceding month;

* * * * *

9. Section 1130.88 is revised as follows:

§ 1130.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including that pursuant to § 1130.14(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1130.46(a) (4) and (8) and the corresponding steps of § 1130.46(b) except other source milk on which no handler obligation applies pursuant to § 1130.70(e); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1130.61(b)(2).

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

Effective date: May 1, 1971.

Signed at Washington, D.C., on April 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-6083 Filed 4-29-71;8:51 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1971–73)

CLARIFICATION OF MARKETING; CORRECTION

The document (Amendment 1) amending Part 1472 of Chapter XIV of Title 7 of the Code of Federal Regulations, published in the FEDERAL REGISTER of April 7, 1971, at 36 F.R. 6561 is corrected by changing the third numbered paragraph (erroneously numbered 2) of that document to read as follows:

§ 1472.1347 [Amended]

3. Section 1472.1347 is amended by substituting "Part 13 of this title" for "Part 1408 of this chapter".

(Sec. 4, 62 Stat. 1070, sec. 5, 62 Stat. 1072, secs. 702–708, 68 Stat. 910–912, as amended, secs. 401–403, 72 Stat. 994–995, sec. 151, 75 Stat. 306, sec. 201, 79 Stat. 1188, 82 Stat. 996, sec. 301, 84 Stat. 1362; 15 U.S.C. 714b, 714c, 7 U.S.C. 1781–1787, as amended)

Effective date. This correction shall become effective upon publication in the FEDERAL REGISTER (4–30–71).

Signed at Washington, D.C., on April 23, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.71-6069 Filed 4-29-71;8:49 am]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Underwriting and Limited or Unlimited Holding

The following new sections are added to Part 1 of Title 12:

Sec.
1.299 City of Inglewood-Los Angeles County Civic Center Authority.
1.300 Louisiana Stadium and Exposition District.
1.301 San Dimas-La Verne Recreational Facilities Authority.
1.302 Water and Sewer Improvement Bonds, Series 1971, Northwest Houston Water Supply Corp.
1.303 San Diego Planetarium Authority.
1.304 Santa Clara County Building Authority.
1.305 Los Angeles County Southeast General Hospital Authority Revenue Bonds, Additional Issue.
1.306 American Fletcher Corp.

AUTHORITY: §§ 1.299–1.306 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136, as amended; 12 U.S.C. 1 et seq., 24(7), unless otherwise noted.

§ 1.299 City of Inglewood-Los Angeles County Civic Center Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $17,750,000 City of Inglewood-Los Angeles County Civic Center Authority, Civic Center Revenue Bonds, Series B, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The City of Inglewood-Los Angeles County Civic Center Authority is a public entity created under the laws of California by an agreement between the City of Inglewood and the County of Los Angeles. Under this agreement, the Authority is authorized to acquire, construct and lease public buildings, and to issue bonds to finance such projects. The Authority is issuing these bonds for the purpose of financing the construction of a City Hall, an emergency operating center, and additions to existing police headquarters and existing parking facilities, all of which will be leased to the City. The Authority has issued $2,440,000 of Series A bonds to finance the construction of a fire station, a city employees' building, and a city vehicle fuel and wash facility under substantially the same circumstances.

(2) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our ruling of November 13, 1970 (§ 1.281), relating to the Series A bonds, that the $17,750,000 City of Inglewood-Los Angeles County Civic Center Authority, Civic Center Revenue Bonds, Series B, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated Mar. 29, 1971.)

§ 1.300 Louisiana Stadium and Exposition District.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $113 million Louisiana Stadium and Exposition District, Hotel Occupancy Tax and Stadium Lease-Rental, Revenue Bonds, Series 2 (1971), for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) An amendment to the Constitution of the State of Louisiana created the Louisiana Stadium and Exposition District as a body politic and a political subdivision of the State. The District is authorized to plan, finance, construct and operate a multipurpose stadium and related facilities and to lease its land and facilities to the State. The District is also authorized to issue bonds to finance the construction of the project. It is issuing these bonds for that purpose.

(2) The State of Louisiana, in its lease-rental agreement with the District, has unconditionally promised to pay annual rentals to the District in an amount which, together with other funds available for the purpose, will be sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The other funds which may be available include the proceeds of a hotel occupancy tax which the District is authorized to levy and collect and the net revenues resulting from the operation of the facilities.

(3) The Supreme Court of Louisiana has held that the constitutional amendment grants the State the right and authority to lease the project and provide for the payment of the consideration therefor through the appropriation of funds or otherwise; that the obligations of the State under any such lease constitute a charge against the revenues of the State; and that for these reasons, the authorization for such leasing comprehends all the commitments which are components of a transaction involving the full faith and credit of the State.

(c) *Ruling.* It is our conclusion that the $113,000,000 Louisiana Stadium and Exposition District, Hotel Occupancy Tax and Stadium Lease-Rental, Revenue Bonds, Series 2 (1971), are general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated Apr. 1, 1971.)

§ 1.301 San Dimas-La Verne Recreational Facilities Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,840,000 San Dimas-La Verne Recreational Facilities Authority Revenue Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The San Dimas-La Verne Recreational Facilities Authority is a public entity created under the laws of California by an agreement between the Cities of San Dimas and La Verne. Under this agreement, the Authority is authorized to purchase and improve an existing recreation area and golf course to be used as a regional public recreational area and to finance such project

through the issuance of revenue bonds.

(2) The Authority is issuing these bonds to finance the purchase of the recreation area and golf course which will be leased to the Cities of San Dimas and La Verne.

(3) Under the lease rental agreement, the Cities have unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on the bonds as well as other necessary expenses. The Cities, which possess general powers of taxation, have thus committed their faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,840,000 San Dimas-La Verne Recreational Facilities Authority Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated April 1, 1971.)

§ 1.302 Water and Sewer Improvement Bonds, Series 1971, Northwest Houston Water Supply Corp.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $8,100,000 Water and Sewer Improvement Bonds, Series 1971, of the Northwest Houston Water Supply Corporation for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Northwest Houston Water Supply Corp. was organized at the request and for the benefit of the City of Houston as a nonprofit water supply corporation under a provision of Texas law which authorizes the formation of such a corporation for the exclusive purpose of furnishing a water supply or sewer service or both to cities and others. The Corporation is authorized to issue bonds to finance the acquisition of water and sewer projects. A city is authorized by law to enter into a contract for the purchase of water and sewer systems from such a corporation and to agree to make periodic payments to the corporation in amounts which together with other income of the corporation will be sufficient to pay the principal of and interest on the bonds of the corporation. The law also authorizes a city to provide for the levying of a tax to make such payments.

(2) The Corporation has entered into a contract with the City of Houston under which the Corporation will finance and construct a water and sewer system for section 3 of a suburban area immediately adjacent to the City and the City will annex section 3 of the area and purchase the system. Construction of the project will be assisted by a federal grant of $1,500,000. The Corporation is issuing these bonds to finance the remaining costs. The Corporation has issued $2,200,000, Series 1967 bonds, and $5,500,000, Series 1970 bonds, to finance the construction of water and sewer systems for sections 1 and 2 or the same general area under substantially the same circumstances.

(3) In the purchase contract, the City has unconditionally promised to make periodic payments to the Corporation in amounts which will be sufficient to pay the principal of and interest on these bonds. The contract also provides that the periodic payments shall be payable from a continuing, direct annual ad valorem tax on all taxable property in the City sufficient to make such payments in each year and the City has by ordinance levied such a tax. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our rulings of December 7, 1967 (§ 1.203) and May 7, 1970 (§ 1.260) relating to the Series 1967 and 1970 bonds, that the $8,100,000 Water and Sewer Improvement Bonds, Series 1970, of the Northwest Houston Water Supply Corporation are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Comptroller's letter dated Apr. 5, 1971.)

§ 1.303 San Diego Planetarium Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $3 million San Diego Planetarium Authority Revenue Bonds for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The San Diego Planetarium Authority is a public entity created under the laws of California by an agreement between the City of San Diego and the County of San Diego. Under this agreement, the Authority is authorized to acquire sites and to acquire, construct, maintain, operate, and lease public buildings and related facilities, and to issue bonds to finance such projects. The Authority is issuing these bonds to finance the site development and the construction of a planetarium and scientific exhibition hall and related facilities which will be leased to the City.

(2) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $3 million San Diego Planetarium Authority Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated Apr. 6, 1971.)

§ 1.304 Santa Clara County Building Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $17 million Santa Clara County Building Authority 1967 Revenue Bonds, Series B, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Santa Clara County Building Authority is a public entity created pursuant to the laws of the State of California by an agreement between the County of Santa Clara and the Santa Clara County Flood Control and Water District for the purpose of financing and constructing building projects for the use of the County and the District. The Authority has issued $2,400,000 Series A bonds to finance the construction of the first unit of a County Service Center which was leased to the County and the District. It is issuing these bonds to finance the construction of the second unit of a County Service Center which will be leased to the County.

(2) Under an amendment to the lease rental agreement, the County has unconditionally promised to pay, as rentals to the Authority, an amount sufficient to pay the principal of an interest on the bonds and all costs and expenses of the Authority relating to such bonds and the operations of the second unit of the County Service Center. The County, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our ruling of June 19, 1967 (§ 1.187) relating to the Series A bonds, that the $17 million Santa Clara County Building Authority 1967 Revenue Bonds, Series B, are general obligations of a State or political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are accordingly eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated Apr. 9, 1971.)

§ 1.305 Los Angeles County Southeast General Hospital Authority Revenue Bonds, Additional Issue.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $2,800,000 Los Angeles County Southeast General Hospital Authority Revenue Bonds, Additional Issue, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County Southeast General Hospital Authority is a public entity created under the laws of California by an agreement between the City of Los Angeles and the County of Los Angeles to finance and construct a general hospital to be leased to and operated by the county. The Authority has issued $22,500,000 of its revenue bonds to finance the construction of the hospital. It is issuing these

additional bonds to finance specific additions and modifications of the hospital facility, including hospital and building service equipment, roadways and other site improvements, and carpeting.

(2) The County has unconditionally promised in the amended lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual principal and interest payments on the original and the additional issue of bonds. The County, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our ruling of May 7, 1968 (§ 1.212) relating to the original issue of these bonds, that the $2,800,000 Los Angeles County Southeast General Hospital Authority Revenue Bonds, Additional Issue, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated Apr. 9, 1971.)

§ 1.306 American Fletcher Corp.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $25 million 7½-year Notes of 1978 of the American Fletcher Corp. for purchase by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* The American Fletcher Corp. is a holding company whose principal asset is The American Fletcher National Bank.

(c) *Ruling.* It is our conclusion that the $25 million 7½-year Notes of 1978 of the American Fletcher Corp. are investment securities under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase and holding by national banks subject to the 10 percent limitation. (Comptroller's letter dated Apr. 13, 1971.)

Dated: April 26, 1971.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.71-6071 Filed 4-29-71;8:50 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Elimination of Shipper's Export Declaration for In Transit Goods for Non-vessel Shipments

The following amendment is made to the regulations published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11367) (15 CFR Part 30). In accordance with administrative procedure 5 U.S.C. 553, notice and hearing on these amendments and postponement of the effective date thereof are unnecessary because (1) the amendments are changes in the substantive rules which grant or recognize exemptions or relieve restrictions and (2) are interpretive rules and statements of policy.

These regulations are issued under the authority of title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, April 8, 1969, 34 F.R. 6703.

Effective date. This amendment to the Foreign Trade Statistics Regulations is effective on the date of publication in the FEDERAL REGISTER (4-30-71).

1. Section 30.55(e) is amended to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(e) Shipments, other than by vessel, of merchandise for which no validated export licenses are required, transported in bond through the United States, and exported from another U.S. port, or transshipped and exported directly from the port of arrival.

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

I concur: April 8, 1971.

EUGENE ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-6054 Filed 4-29-71;8:48 am]

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[19th Gen. Rev. of Export Regs.; Admt. 19]

PART 379—TECHNICAL DATA

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Miscellaneous Amendments

In § 379.4(e)(1), subdivision (iii) is amended by adding the following commodities.

§ 379.4 General License GTDR: Technical data under restriction.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(*aa*) Specially purified (Electronic Grade) synthetic polymer photoresist thinners and rinses (Export Control Commodity No. 59).

(*bb*) Synthetic polymer photoresists and specially purified (Electronic Grade) photoresist developers (Export Control Commodity No. 862).

(*cc*) High resolution photographic plates and film capable of a resolution of more than 500 lines/mm. (measured with a 1,000:1 high contrast test object); metal-clad photographic plates and film, whether or not emulsion or photoresist coated; and other photographic plates and film specially designed for use in the production of masks for micro-electronic circuitry manufacture (Export Control Commodity No. 862).

(*dd*) Exposed, but not developed, high resolution photographic plates and film, metal-clad photographic plates and film, and other plates and film bearing an image suitable for use in the production of masks for micro-electronic circuitry manufacture (Export Control Commodity No. 862).

* * * * *

In § 399.1, a new paragraph (d) is established to read as follows:

§ 399.1 Commodity Control List; incorporation by reference.

* * * * *

(d) In addition to issuances of Export Control Bulletins as described in paragraph (c) of this section, the following entries on the Commodity Control List are revised to read as follows:

U.S. Department of Commerce export control commodity number and commodity description	Unit	Processing No.	Validated license required for country groups shown below	GLV dollar value limits for shipments to country groups			Special provisions list
				T	V	X	
CHEMICAL MATERIALS AND PRODUCTS, N.E.C.							
59(*21*)B Specially purified (electronic grade) synthetic polymer photoresist thinners and rinses.	Lb.	242	STVWXYZ.....	25	25	0	
PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS, WATCHES, AND CLOCKS							
862(*1*)B Synthetic polymer photoresists and specially purified (electronic grade) photoresist developers.	.....	242	STVWXYZ.....	25	25	0	
862(*1*)G Photoresist formulations based on naturally occurring glues, gums, gelatins, albumens, shellacs, or lacquers.	.....	248	SZ.....				
862(*5*)B High resolution photographic plates and film capable of a resolution of more than 500 lines/mm (measured with a 1000:1 high contrast test object); metal-clad photographic plates and film, whether or not emulsion or photoresist coated; and other photographic plates and film specially designed for use in the production of masks for microelectronic circuitry manufacture.	Sq. ft.	212	STVWXYZ.....	0	0	0	
862(*6*)B Exposed, but not developed, high resolution photographic plates and film, metal-clad photographic plates and film, and other plates and film bearing an image suitable for use in the production of masks for microelectronic circuitry manufacture.	Sq. ft.	212	STVWXYZ.....	0	0	0	

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.)

Effective Date: April 28, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71-6141 Filed 4-28-71;12:30 pm]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1893]

PART 13—PROHIBITED TRADE PRACTICES

Government Employees' Exchange, Inc. et al.

Subpart—Enforcing dealings or payments wrongfully: § 13.1045 *Enforcing dealings or payments wrongfully.* Subpart—Securing orders by deception: § 13.217 *Securing orders by deception.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Government Employees' Exchange, Inc. et al., Washington, D.C., Docket No. C-1893, Apr. 6, 1971]

In the Matter of Government Employees' Exchange, Inc., a Corporation, and Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, Individually and as Officers of Said Corporation

Consent order requiring a Washington D.C., publisher and distributor of a biweekly newspaper for government employees to cease publishing advertisements for any firm without prior authorization, failing to discontinue such advertisements after being notified, and seeking to collect for such unauthorized advertisements.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Government Employees' Exchange, Inc., a corporation, and its officers, and Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the solicitation, offering for sale or the sale of advertising space, in any newspaper or other publication in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Placing, printing or publishing, or causing to be placed, printed or published, any advertisement on behalf of any person, firm or corporation, in any publication without a prior authorization, order or agreement to purchase said advertisement.

2. Placing, printing or publishing any advertisement after being notified by the advertiser, or his duly authorized representative, that the advertisement is to be discontinued.

3. Sending, or causing to be sent, bills, letters or notices to any person, firm or corporation with regard to any advertisement which has been or is to be printed, inserted or published on behalf of said person, firm or corporation, or in any manner seeking to exact payment for any such advertisement, without a prior and specific authorization, order or agreement to purchase the said advertisement.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or of any change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: April 6, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-6046 Filed 4-29-71;8:47 am]

[Docket No. C-1890]

PART 13—PROHIBITED TRADE PRACTICES

Jacobs Brothers Industries, Inc., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* § 13.1053-80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Jacobs Brothers Industries, Inc., et al., South Hackensack, N.J., Docket No. C-1890, April 2, 1971]

In the Matter of Jacobs Brothers Industries, Inc., a Corporation, and Bernard Jacobs, David Janco, and Robert Jacobs, Individually and as Officers of Said Corporation

Consent order requiring South Hackensack, N.J., manufacturers of children's wearing apparel to cease misbranding their wool products and falsely guaranteeing their textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Jacobs Brothers Industries, Inc., a corporation, and its officers, and Bernard Jacobs, David Janco and Robert Jacobs, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Jacobs Brothers Industries, Inc., a corporation, and its officers, and Bernard Jacobs, David Janco and Robert Jacobs, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: April 2, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-6047 Filed 4-29-71;8:47 am]

[Docket No. C-1892]

PART 13—PROHIBITED TRADE PRACTICES

L'Enfant Dress Co., Inc. and Theodore Halper

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, L'Enfant Dress Co., Inc., et al., New York, N.Y., Docket No. C-1892, Apr. 2, 1971]

In the Matter of L'Enfant Dress Co., Inc., a Corporation, and Theodore Halper, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer and distributor of wearing apparel, including children's party dresses, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent L'Enfant Dress Co., Inc., a corporation, and its officers and Theodore Halper, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since March 13, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: April 2, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6048 Filed 4-29-71;8:47 am]

[Docket No. C-1891]

PART 13—PROHIBITED TRADE PRACTICES

Smith Bros. Furs, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Smith Bros. Furs, Inc., et al., New York, N.Y., Docket No. C-1891, Apr. 2, 1971]

In the Matter of Smith Bros. Furs, Inc., a Corporation, and Ben Smith and Al Smith, Individually and as Officers of Said Corporation

Consent order requiring New York City manufacturers and wholesalers of furs to cease misbranding and deceptively invoicing their fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, that respondents Smith Bros. Furs, Inc., a corporation, and its officers, and Ben Smith and Al Smith, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding any fur product by failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

2. Falsely or deceptively invoicing any fur product by failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

3. Failing to set forth on an invoice the item number or mark assigned to such fur product.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the

manner and form in which they have complied with this order.

Issued: April 2, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6049 Filed 4-29-71;8:48 am]

[Docket No. C-1888]

PART 13—PROHIBITED TRADE PRACTICES

American Book Club, et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* 13.155-5 Additional charges unmentioned; 13.-155-15 Comparative; 13.155-80 Retail as cost, wholesale, discounted, etc.; 13 - 155-100 Usual as reduced, special, etc.; § 13.180 *Quantity:* 13.180-30 In stock; § 13.185 *Refunds, repairs, and replacements;* § 13.240 *Special or limited offers.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* § 13.1720 *Quantity;* § 13.1725 *Refunds;* § 13.1747 *Special or limited offers;* Misrepresenting oneself and goods—Prices: § 13.1778 *Additional costs unmentioned;* § 13.1785 *Comparative;* § 13.1820 *Retail as cost, etc., or discounted;* § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1882 *Prices.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, American Book Club et al., Philadelphia, Pa., Docket No. C-1888, Apr. 1, 1971]

In the Matter of American Book Club, a Partnership, and American Book Club, a Corporation, and Cletus P. Lyman and J. Roger Williams, Esq., Individually and as Officers of Said Corporation

Consent order requiring a Philadelphia, Pa., mail-order book club to cease misrepresenting that its customers will save money on the purchase of books from respondents, listing remainder books with original prices, misrepresenting that respondents have automatic data processing connections with publishers of books, misrepresenting that certain of its printed matter is limited to certain purchasers, failing to make refunds or shipments of books within a reasonable time, and failing to keep adequate records to disclose its savings claims.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents American Book Club, a partnership, and American Book Club, a corporation, and its officers, and Cletus P. Lyman and J. Roger Williams, Esq., individually and as officers of said corporation, and respondents' agents and employees, directly or indirectly, by corporate or any other device, in connection with the advertising, offering for sale, sale or distribution of book club memberships, books, printed matter, or any other articles of merchandise or services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that customers will save money or be able to purchase books at prices below the regular price of such books without disclosing in immediate conjunction therewith, the basis for such savings representations.

2. Representing, directly or by implication, that purchasers of respondents' memberships or books will save any stated dollar or percentage amount unless in fact the amount represented applies to a substantial number of available books and accurately reflects the average savings for all books sold by respondents.

3. Failing to disclose in connection with any representations concerning discounts, reduced prices, or savings, that postage, handling, shipping and/or other charges must be paid by the purchaser.

4. Representing, directly or by implication, the list price of reprints or remainders without clearly disclosing that the list price was that of the original publisher and is not the current retail price of such reprints or remainders.

5. Representing, directly or by implication, that respondents' warehouse or otherwise stock books unless the average number of books actually stocked or warehoused by respondents is disclosed in immediate conjunction therewith.

6. Representing, directly or by implication, that books or other printed matter will be received by purchasers within a stated period of time unless in fact the stated period is the maximum length of time within which the majority of such books are received by purchasers.

7. Representing, directly or by implication, that respondents own or employ automatic data processing equipment which provides a direct channel of communication linking them with publishers of books.

8. Representing, directly or by implication, that membership fees or other charges are used solely for computer programing, advertising, or any other specified purpose.

9. Representing, directly or by implication, that the sale or distribution of catalogs, books, or other printed matter is limited to certain purchasers or unavailable to certain classes of persons unless such represented limitation was actually imposed and in good faith adhered to.

10. Representing, directly or by implication, that book dealers, wholesalers, and retail book establishments cannot purchase books at the same price or from the same sources which are available to respondents.

11. Representing, directly or by implication, that a purchaser will receive only the original publisher's edition of books when any of such books are not the original publisher's edition.

12. Failing to insure that employees, when requested pursuant to a guarantee of satisfaction for a full refund, refund the purchase price in full of books membership fees, or other merchandise together with all charges paid by purchasers in connection with such purchase voluntarily and within the time specified in respondents' advertisements, or if no time specified, within a reasonable time not to exceed 10 working days; or failing to insure that employees make any other refunds to which a purchaser is entitled within 10 working days from the date of the receipt of the request for such refund.

13. Representing, directly or by implication, that offers of catalogs, books, or other printed matter are limited in point of time or available quantities unless such represented limitation or restriction was actually imposed and in good faith adhered to.

14. Failing to insure that employees make shipments of advertised books, catalogs, printed matter, or other merchandise within the time specified in respondents' advertisements, or if no time specified, within a reasonable time or to return the full purchase price therefor to the purchaser.

15. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including comparable value claims, and similar representations of the types described in paragraphs 1, 2, 3, and 4 of this order are based, and (b) from which the validity of any savings claims and comparative value claims, and similar representations of the types described in paragraphs 1, 2, 3, and 4 of this order can be determined.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of its operating divisions, and to any agency or individual employed by respondents for the purpose of originating or otherwise preparing advertising of any nature.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent or partnership respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor partnership or corporation, the creation or dissolution of subsidiaries, changes in the corporation or partnership which may affect compliance obligation arising out of this order.

It is further ordered, That respondent maintain for at least a two (2) year period, copies of all advertisements, direct mail solicitations, and any other such written representations made to secure the sale of memberships, books, or other printed matter.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: April 1, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6050 Filed 4-29-71;8:48 am]

[Docket No. C-1886]

PART 13—PROHIBITED TRADE PRACTICES

Amstar Corp.

Subpart—Discriminating in price under Section 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses;* § 13.825 *Allowances for services or facilities.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, Amstar Corp., New York, N.Y., Docket No. C-1886, Mar. 30, 1971]

In the Matter of Amstar Corp., a Corporation. (Formerly Named American Sugar Co.)

Consent order requiring a business engaged in the manufacture and sale of sugar for retail and commercial purposes with headquarters in New York City to cease violating sec. 2(d) of the Clayton Act by paying advertising and promotional allowances to certain of its customers while not making such payments available to all its customers who compete with the favored customers in the sale of its products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondent Amstar Corp., a corporation, and its officers, agents, representatives and employees, successors and assigns, directly or through any corporate or other device, in or in connection with the sale of sugar and other related products, in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from: Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation for or in consideration of advertising or promotional services or any other service or facility furnished by or through such customer in connection with the handling, sale or offering for sale of said products, unless such payment or consideration is made available on proportionally equal terms to all other customers, including customers who do not purchase directly from respondent, who compete with such favored customers in the distribution or resale of such products.

It is further ordered, That respondent corporation deliver a copy of this order to cease and desist to each of its operating divisions and to all present personnel of respondent engaged in the sale of respondent's sugar and other related products within the United States.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of the order, including such changes as dissolution, assignment, or sale resulting in the emergence of a successor corporation or the creation or dissolution of subsidiaries, except that if respondent has less than thirty (30) days prior knowledge of a proposed change, respondent shall notify the Commission as promptly as possible, and in no event more than thirty (30) days after respondent has such knowledge.

It is further ordered, That respondent shall within sixty (60) days after service upon it of this order, file with the Commission its report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

Issued: March 30, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc. 71-6051 Filed 4-29-71; 8:48 am]

[Docket No. C-1887]

PART 13—PROHIBITED TRADE PRACTICES

Bulova Watch Co., Inc.

Subpart—Coercing and intimidating: § 13.350 *Customers or prospective customers.* Subpart—Combining or conspiring: § 13.425 *To enforce or bring about resale price maintenance;* § 13.475 *To restrict competition in buying.* Subpart—Cutting off supplies or service: § 13.610 *Cutting off supplies or service.* Subpart—Maintaining resale prices: § 13.1145 *Discrimination:* 13.1145-5 Against price cutters; § 13.1165 *Systems of espionage:* 13.1165-90 Spying on and reporting price cutters, in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Bulova Watch Co., Inc., New York, N.Y., Docket No. C-1887, Apr. 1, 1971]

In the Matter of Bulova Watch Co., Inc., a Corporation

Consent order requiring a New York City manufacturer and distributor of watch and clock products to cease fixing the resale prices of its products, refusing to extend guarantees to certain purchasers, refusing to sell to retailers who discount, refusing to sell Bulova brand watches to retailers who refuse to handle other respondent products, and requesting its customers in nonfair trade States to report discounting dealers.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Bulova Watch Co., Inc., and its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert with others, directly or through any corporate or other device, in connection with the distribution, offering for sale, or sale of watch or clock products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into, maintaining or enforcing any contract, agreement, combination, understanding or course of conduct which has as its purpose the fixing, maintaining, establishing or setting of the prices at which its dealers must resell Bulova watch or clock products: *Provided, however,* That nothing contained in this order shall be construed to prevent respondent from engaging in a legitimate fair trade program in those States having fair trade laws.

2. Entering into, maintaining, or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose restricting the persons to whom any Bulova dealer or other person may resell Bulova watch or clock products.

3. Refusing to extend the terms of the Bulova watch or clock guarantee to consumer purchasers of Bulova watch or clock products from any retailer, provided that the watch or clock product has not been tampered with or damaged by anyone in the line of sale between Bulova and the consumer.

4. Refusing to sell Bulova watch or clock products to any dealer—

A. because the dealer has in the past or might in the future discount Bulova watch or clock products or advertising Bulova watch or clock products at less than the suggested retail price, in nonfair trade States, territories, the District of Columbia, or the Commonwealth of Puerto Rico;

B. because the dealer transshipped or sold Bulova watch or clock products to a retailer.

5. Refusing to sell Bulova watch or clock products to any retailer because Bulova agreed or reached an understanding with one or more retailers not to continue to sell Bulova watch or clock products to another retailer.

6. Refusing to sell Bulova watch or clock products to any retailer because the retailer or the dealer refuses to purchase the Bulova, the Accutron, or the Caravelle brand of watches, along with the retailer's or the dealer's desired brand or brands of Bulova watch or clock products.

7. Requesting its dealers to report to it the names of discounting dealers in nonfair trade States, territories, or the District of Columbia, or discounters in fair trade States where nonsigners are not bound and in which the discounter is a nonsigner, except that nothing contained in this order shall be interpreted so as to prohibit respondent's salesmen, agents, representatives or employees from observing and reporting pricing information to respondent.

8. Refusing to inform any retailer or dealer in writing of:

A. the reason or reasons for its refusal to sell to the retailer or dealer; and

B. the sales standards that the retailer or dealer is expected to meet.

9. Advertising that it is Bulova's policy to maintain suggested retail prices in nonfair trade states, territories, the District of Columbia, or the Commonwealth of Puerto Rico.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions, to its present and future salesmen, to its present and to all future dealers for 5 years from the entry of this order at the time that the dealer is opened as an account.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: April 1, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-6052 Filed 4-29-71;8:48 am]

[Docket No. C-1889]

PART 13—PROHIBITED TRADE PRACTICES

Harry Stroiman and Empire Builders Co.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.105 *Individual's special selection or situation;* § 13.155 *Prices:* 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc.; § 13.170 *Qualities or properties of product or service:* 13.170-34 Economizing or saving; § 13.260 *Terms and conditions.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1663 *Individual's special selection or situation;* § 13.1715 *Quality;* § 13.1760 *Terms and conditions:* 13.1760-50 Sales contract; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act; § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Harry Stroiman et al., Des Moines, Iowa, Docket No. C-1889, Apr. 1, 1971]

In the Matter of Harry Stroiman, an Individual Trading as Empire Builders Co.

Consent order requiring a Des Moines, Iowa, individual engaged in the sale and distribution of residential aluminum siding products to cease misrepresenting that any price for respondent's products is a special or reduced price, failing to maintain records supporting his savings claims, misrepresenting that a customer's home will be used as a model, failing to disclose the nature and extent of the guarantee, and failing to include on all notes a Notice that "Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby"; and failing to make certain disclosures required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That Harry Stroiman, an individual trading as Empire Builders Co., or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or installation of residential aluminum siding or other home improvement products or services, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwill cease and desist from:

1. Representing, directly or by implication, that any price for respondent's products and/or services is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products and/or services have been sold in substantial quantities by respondent in the recent regular course of his business; or misrepresenting, in any manner, the savings available to purchasers.

2. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including special or reduced pricing claims, former pricing claims and comparative value claims, and similar representations of the type described in paragraph 1 of this order are based, and (b) from which the validity of any savings claims, including special or reduced pricing claims, former pricing claims and comparative value claims, and similar representations of the type described in paragraph 1 of this order can be determined.

3. Representing, directly or by implication, that the home of any of respondent's customers or prospective customers has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.

4. Representing, directly or by implication, that any of respondent's products are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; or making any direct or implied representation that any of respondent's products are guaranteed unless in each instance a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations and unless respondent promptly fulfills all of his obligations under the represented terms of such guarantee.

5. Representing, directly or by implication, that purchasers of respondent's residential siding materials will realize a substantial savings on their heating bills; or misrepresenting, in any manner, the amount of savings afforded to respondent's customers on their heating bills.

6. Failing to clearly and conspicuously incorporate the following statement on the face of all sales contracts, all notes or other evidence of indebtedness executed by or on behalf of respondent's customers:

"NOTICE"

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby.

II. *It is further ordered,* That respondent Harry Stroiman, an individual trading as Empire Builders Co., and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with any extension of consumer credit, as "consumer credit" is defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et. seq.), do forthwith cease and desist from:

1. Failing to disclose the date on which the finance charge begins to accrue when that date is different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z; or when this date is unknown, failing to estimate that date, pursuant to § 226.6(f) of Regulation Z.

2. Failing to indicate all charges which are not part of the cash price or the finance charge but are included in the amount financed, and to itemize each such charge individually, as required by § 226.8(c)(4) of Regulation Z.

3. Providing information to any customer which states, directly or indirectly, that the customer will or may be liable for damages, penalties or any other charges for exercising the right to rescind which is accorded pursuant to § 226.9(a) of Regulation Z.

4. Providing any information other than that required to be disclosed by § 226.8 or § 226.9 of Regulation Z which misleads the customer or which contradicts, obscures or detracts attention from the information concerning the right to rescind required to be disclosed by Regulation Z.

5. Failing, in any consumer credit transaction or advertisement, to make all disclosures in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

III. *It is further ordered,* That respondent shall forthwith deliver a copy of this order to cease and desist to all

present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: April 1, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-6053 Filed 4-29-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

p-Nitrophenyl 2-Nitro-4-(Trifluoromethyl)phenyl Ether

A petition (PP 0F0992) was filed by Ciba-Geigy Corp., Vero Beach, Fla. 32960, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the herbicide *p*-nitrophenyl 2-nitro-4-(trifluoromethyl)phenyl ether in or on the raw agricultural commodities seed and pod vegetables at 0.1 part per million.

Subsequently, the petitioner amended the petition to propose tolerances of 0.1 part per million for negligible residues in or on the forages of seed and pod vegetables.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to the tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed use is not reasonably expected to result in residues in meat, milk, poultry, and eggs. This use is classified in the category specified in § 420.6 (a)(3).

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

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office of the Environmental Protection Agency (36 F.R. 1228), § 420.290 is amended to read as follows:

§ 420.290 *p*-Nitrophenyl 2-nitro-4-(trifluoromethyl)phenyl ether; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide *p*-nitrophenyl 2-nitro-4-(trifluoromethyl)phenyl ether and its metabolites *p*-nitrophenyl 2-amino-4-(trifluoromethyl)phenyl ether and *p*-nitrophenol in or on the raw agricultural commodities seed and pod vegetables and their forages, soybeans and soybean forage.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4-30-71).

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

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner, Pesticides Office.

[FR Doc.71-6023 Filed 4-29-71;8:45 am]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 24—DEBARMENT, SUSPENSION, AND INELIGIBILITY OF CONTRACTORS AND GRANTEES

The purpose of these regulations is to establish criteria and procedures applicable for the debarring, suspending, or disqualifying of contractors and grantees under any program administered by the Department of Housing and Urban Development.

Notice of a proposed amendment to Part 24 of Title 41 of the Code of Federal Regulations was published in the FEDERAL REGISTER on October 8, 1970 (35 F.R. 15837). Comments were received from interested persons and consideration has been given to each comment.

In the notice of proposed rule making it was proposed to amend Title 41 of the Code of Federal Regulations. Chapter 24 of 41 CFR relates to Federal Procurement Regulations. However, the Department intends, as stated in § 24-1.001 of these regulations, that they apply to grantees as well as contractors. Their applicability, moreover, is not restricted to procurement contractors alone. Accordingly, these regulations are being adopted as a new Part 24, amending Subtitle A of 24 CFR to apply to contractors and grantees as defined in § 24-1.003.

The proposed rule as originally published for notice and public procedure contained no separate section stating Department policy on the amending of grants and contracts. Upon further consideration, the Department determines that a policy statement would be appropriate and § 24-1.000 has been added to express the HUD policy that awards be made only to responsible contractors and grantees.

As originally proposed these regulations were to apply to (1) contractors or grantees whose property is being acquired under a HUD program by a public entity possessing the power of eminent domain, and (2) relocation payments. However, as it was considered to be an intolerable burden to enforce these provisions, paragraph (b) in § 24-1.003, *Applicability*, excepts these two groups from these procedures.

It was decided that for purposes of clarification changes were necessary in certain definitions under § 24-1.004. The term "previous participation list" has been changed to avoid confusion with its previous use in a different context, and the new term "consolidated list" substituted in paragraph (e). Paragraph (g) has been expanded to include construction contractors under "contractors and grantees", and paragraph (f) "financial assistance" now includes procurement contracts, consistent with the broad applicability of these regulations as reflected in the changed codification explained above. Similarly, the phrase "Federally assisted construction contracts" has been added to § 24-1.007(d)

As originally proposed, the definition of "General provisions" in § 24-1.005 excluded investigations by authorized officers other than the Office of Investigation. This has been changed to include other investigatory personnel. Paragraph (c) clarifies that the right to a hearing upon denial of assistance does not accrue until other available remedies for reinstatement have been exhausted.

Section 24-1.006(f) which provided that Adverse Information Reports would be incorporated in the consolidated list has been deleted together with the corollary references to Adverse Information Reports that appeared throughout these regulations. One commenter contends that incorporation of Adverse Information Reports in the consolidated list was punitive and unnecessary, inasmuch as other sanctions exist for failure of contract performance. While we do not accept the argument that incorporation of the Reports would be puntive, we have

deleted § 24–1.006(f) as was suggested.

The statement in §§ 24–1.009(b)(4) and 24–1.010(b)(3) that action shall be taken on the basis of the preponderance of the evidence has been changed to read "on the evidence presented." Since the term "preponderance" related to neither the negative nor affirmative finding, it established no burden of proof, and the action must in either event be based on the evidence.

Section 24–1.008(a) sets forth the restrictions applicable to debarred, suspended or ineligible contractors and grantees. A proviso has been added to clarify that debarment for equal employment obligations under Executive Order 11246 is limited to the program with respect to which noncompliance has occurred. Similar explanatory language of limitation has been added to paragraph (a)(7) of § 24–1.009 which lists causes for debarment.

No provision had been made in the proposed rule to indicate which HUD official would represent the program office in a hearing. Section 24–1.010 now provides in paragraph (b)(3) that the General Counsel or his designee shall represent the respective program officer. In order to improve procedures the paragraph also provides that the hearing officer's initial determination, which becomes part of the official record, shall be issued in writing and becomes final unless reversed or modified within 30 days by the appropriate Assistant Secretary, who shall sign the final determination. To avoid the possible appearance of bias or prejudice, paragraph (c) was changed to provide that members of the hearing officer panel shall serve on a rotating basis. Paragraph (d) embodies the established legal principal that statutory or Executive order procedures take precedence over these regulations to the extent of any inconsistency.

Section 24–1.012, paragraph (a)(2), establishes a residual category of serious and compelling causes for suspension as determined by the Secretary. The rule now requires that such determinations by the Secretary shall be in writing and shall clearly demonstrate that suspension is in the best interests of the Department.

Section 24–1.013, "Period and Scope of Suspension," adds certain factors to be considered in determining whether affiliates of a contractor or grantee should be included in the suspension proceeding.

As originally proposed, § 24–1.014 did not allow bids and proposals to be entered by, nor awards and contracts to be made to, suspended contractors or grantees, unless it was determined to be in the best interest of the Government; however, no criteria were provided upon which to base the determination. Section 24–1.014 now includes in paragraph (a) certain criteria for that purpose.

Apart from the points adopted in the above-discussed changes, certain comments raised other arguments which we do not find persuasive and which are not reflected in the final rule.

One commenter urged that violations of title VI and Executive Order 11246 should not constitute a basis for debarment listing in accordance with § 24–1.007, and noted that Department action under the Executive order requires coordination with the Secretary of Labor. However, a contractor would not be listed in accordance with § 24–1.007 until he has been found to be in violation of the law, and this latter determination would of necessity have been coordinated with the Secretary of Labor.

Section 24–1.7510, "Unsatisfactory Risk Determination," has been omitted from the final rule since such determinations and ancillary procedures relating to mortgage insurance applications are set forth in 24 CFR 200.200 et seq., from which appeal may be taken under these regulations.

Finally, various trade associations have raised general objections based on vagueness, improper delegation, lack of due process, and lack of fairness, with respect to certain provisions. Essentially, these comments contend that the measures provided under these regulations are unnecessarily harsh, and do not accord contractors and grantees the same safeguards that are available to persons accused in criminal proceedings. We believe such objections misconstrue the objective of these regulations. The Government is obliged to assure that every contractor or grantee with whom it deals will comply with provisions of law intended to benefit the general public; the Government, moreover, is entitled to do business with persons whom it selects for competence, subject to the provisions of law and the test of fairness. We have attempted to avoid vagueness in formulating a rule that is sufficiently comprehensive, and we have sought to protect individual rights in the process. Protection of the public interest compels, we believe, the adoption of the provisions set forth in these regulations, although we bear in mind that a rule or regulation that potentially affects a contractor's business reputation or capability of performance must be administered with the utmost care and regard.

Accordingly, Subtitle A of Title 24 is amended by adding a new Part 24 to read as follows:

Subpart 24–1—Debarment and Suspension Regulations

Sec.

AUTHORITY: The provisions of this Part 24 are issued under sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Subpart 24–1—Debarment and Suspension Regulations

§ 24–1.000 Policy.

(a) In order that this Department may realize the goal of a decent home and a suitable living environment for every American family, it is necessary that grants and contracts awarded by the Department and by those entities with whom it does business be made only to those contractors and grantees which can demonstrate that Government funds will be properly utilized. Department policy requires, therefore, that awards may be made only to responsible contractors and grantees. In evaluating past performance of participants in programs administered by the Department, as well as other relevant aspects of the record and status of the participants, the criteria for debarment and suspension shall be uniform.

(b) It is recognized that each Department office requires certain latitude to function effectively in this area. Each office may accordingly implement these regulations by appropriate guidelines which prescribe auxiliary procedures not inconsistent with this part and which have been approved, prior to adoption, by the Office of General Counsel.

§ 24–1.001 Scope of subpart.

This subpart prescribes procedures relating to:

(a) The debarment of contractors and grantees for cause;

(b) The suspension of contractors and grantees for cause under prescribed conditions;

(c) The placement of contractors and grantees in ineligibility status when they are included in lists which make their participation in federally assisted programs illegal;

(d) Use of Adverse Information Reports to identify contractors and grantees having unfavorable performance records; and

(e) Reconsideration of debarment and suspension.

§ 24–1.002 Authority.

This subpart is issued under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 24–1.003 Applicability.

(a) This subpart applies to (1) contracts in accordance with 41 CFR, Chapter I, for procurement of property, nonpersonal services (including construction), and personal services (41 CFR § 1–3.204); (2) HUD assisted contracts; (3) public and private organizations and individuals who are contractors with or

grantees of the Department and to all who receive HUD funds from such contractors or grantees; (4) and participants, or contractors with participants, in programs where HUD is the guarantor or insurer.

(b) This subpart does not apply to (1) contracts with, or grants made to, owners or occupants of real property in connection with the acquisition of such real property, or any interest therein, by a public entity for a HUD assisted program or project where such entity possesses the power of eminent domain; or (2) relocation payments.

§ 24–1.004 Definitions.

(a) "Debarment" means, in general, an exclusion from participation in HUD programs for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance. However, in connection with Executive Order 11246 on Equal Employment Opportunity, the term debarment also means an exclusion from contracting or subcontracting for an indefinite period of time pending the elimination of the circumstances for which the exclusion was imposed.

(b) "Suspension" means a disqualification from participation in HUD programs for a temporary period of time because a contractor or grantee is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(c) "Placement in ineligibility status" means a disqualification from participation in HUD programs pending the elimination of the circumstances which constitute the basis for imposition of the disqualification.

(d) "Affiliates." Business concerns are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

(e) "Consolidated List." A list of all contractors and grantees against whom any or all of the measures referred to in this part have been invoked. It includes past performance data and the status of participant on any debarment, suspension, or ineligibility list.

(f) "Adverse Information Report." A record of contractors and grantees whose performance has been unsatisfactory under auxiliary procedures established by the offices of the Assistant Secretaries.

(g) "Contractors or grantees." Individuals and public or private organizations that are direct recipients of HUD funds or that receive HUD funds indirectly through non-Federal sources; all participants, or contractors with participants, in programs where HUD is the guarantor or insurer; and Federally assisted construction contractors.

(h) "Financial assistance." Assistance through grant or contractual arrangements; assistance in the form of loans, loan guarantees or insurance; and in addition, award of procurement contracts, notwithstanding any quid pro quo given.

§ 24–1.005 General.

(a) Debarment, suspension, and placement in ineligible status are measures which may be invoked by offices of the Department either to exclude or to disqualify contractors and grantees from participation in Department programs. These measures shall be used for the purpose of protecting the public and are not for punitive purposes. To assure the Department of benefits to be derived from the full and free competition of interested contractors and grantees, these measures should not be instituted for any time longer than deemed necessary, and should generally preclude awards only for the duration of the period of nonresponsibility.

(b) Department action to exclude or to disqualify contractors and grantees from participation in its programs, or to reconsider such measures, shall be based upon all available relevant facts. Department investigation required to elicit such facts and related evidence shall be conducted by the Office of Investigation or by such other office as has been assigned investigative authority.

(c) In any instance where Department action under these regulations results in an applicant's being denied financial assistance on the basis of his previous conduct with the Department, the applicant is entitled to a hearing in accordance with paragraphs (b) (2) and (3) of § 24–1.010 regardless of the procedure which has been applied to effect such denial: *Provided*, That the applicant has exhausted all other available procedures for reinstatement with respect to the program under which assistance was denied.

(d) Where an Assistant Secretary has authority under this part to act or make a determination, he may delegate all or part of this authority.

§ 24–1.006 Establishment and maintenance of lists of contractors and grantees debarred, suspended, declared ineligible; auxiliary lists.

(a) The Director, Office of Investigation, shall be responsible for maintenance and consolidation of Department lists relating to debarment, suspension, and ineligibility and any Adverse Information Reports furnished by the Assistant Secretaries. He shall further maintain debarment lists of other Government agencies which this Department is required by law and Executive order to observe.

(b) Each Assistant Secretary shall advise the Director, Office of Investigation, of additions or deletions to be made in the lists maintained by the Office of Investigation. Such lists shall be periodically reviewed by the General Counsel to assure that the criteria, procedures, and standards included in these regulations are observed.

(c) The Director, Office of Investigation, shall, in cooperation with the offices of the Department and the Office of ADP Systems Management and Operations, establish automative procedures for assuring that effective and timely reference checks may be made by designated officials.

(d) The General Counsel, in cooperation with the Assistant Secretaries, shall determine the necessity for and degree of restriction imposed on circulation to non-Federal entities of the lists maintained by the Office of Investigation and correspondence relating to such lists. If the General Counsel determines a list shall be so restricted, the Director, Office of Investigation, shall establish rules for handling such list. Lists shall be marked "For Official Use Only."

(e) All lists shall be kept current. Procedures for issuance of notices of additions and deletions shall be established by the Director, Office of Investigation, in cooperation with the Office of ADP Systems Management and Operations. Each Assistant Secretary shall appoint a liaison officer responsible for providing the Office of Investigation with current information.

(f) The Consolidated List shall show as a minimum the following information where applicable: (1) The names of those contractors and grantees debarred, suspended, or ineligible (in alphabetical order) with appropriate cross reference where more than one name is involved in a single transaction; (2) the basis of authority for each action; (3) the extent of restrictions imposed; and (4) the termination date for each listing. Within 30 days after the issuance of these regulations, each Assistant Secretary shall transmit to the Director, Office of Investigation, any debarment, suspension and ineligiblity lists (including the above-mentioned information) which relate to his program area.

(g) The Director, Office of Investigation, shall arrange for reproduction and distribution of the Consolidated List. Publication shall be in accordance with entries made under § 24–1.007. Distribution of such list among Department employees shall be made to those whose duties require access to the list as authorized by the Assistant Secretaries having respective jurisdiction of such employees. Names and dates of debarment, suspension, or ineligibility contained in the Consolidated List will be available upon request to those who require such information in their relations with contractors and grantees; further information contained in such list shall only be distributed to those deemed eligible by the General Counsel under paragraph (d) of this section.

(h) Procedures for submitting requests for information contained in the Consolidated List and distribution of such information shall be established by the Office of Investigation in cooperation with the Office of ADP Systems Management and Operations.

(i) Following publication of these regulations and as soon as practicable, the Office of ADP Systems Managment and study in connection with the inclusion in the ADP system of information contained in the Consolidated List.

§ 24–1.007 Bases for entry.

Entry shall be made on the debarred, suspended, and ineligible list of contractors and grantees on the following bases:

(a) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (41 U.S.C. 37), which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that Act.

(b) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U.S.C. 276a–2(a)), as found by the Comptroller General to have violated said Act.

(c) Those listed by the Comptroller General in accordance with the provisions of Part 5, § 5.6(b) of the regulations of the Secretary of Labor issued pursuant to authority granted under Reorganization Plan 14 of 1950, as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or overtime pay provision of any statutes including the following:

(1) Davis-Bacon Act (40 U.S.C. 276a).

(2) Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276 b, c).

(3) The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330).

(4) National Housing Act (12 U.S.C. 1703).

(5) Hospital Survey and Construction Act (42 U.S.C. 291).

(6) Airport and Airway Development Act of 1970 (49 U.S.C. 1701).

(7) Housing Act of 1949 (42 U.S.C. 1401).

(8) School Survey and Construction Act of 1950 (20 U.S.C. 251).

(9) Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1501, 1591).

(10) Federal Civil Defense Act of 1950 (50 App. U.S.C. 2281(i)).

(11) Area Redevelopment Act of 1961 (42 U.S.C. 2518).

(12) Delaware River Basin Compact (sec. 15.1, 75 Stat. 714).

(13) Health Professions Educational Assistance Act of 1963 (sec. 721, 77 Stat. 167).

(14) Mental Retardation Facilities Construction Act (secs. 101, 122, 135, 77 Stat. 282, 284, 288).

(15) Community Mental Health Centers Act (sec. 205, 77 Stat. 292).

(d) Those debarred by the Secretary of Labor, or by the Secretary of this Department with the approval of the Secretary of Labor, under Executive Order 11246 as amended by Executive Order 11375 on Equal Employment Opportunity from participation in Government, or federally assisted construction, contracting or subcontracting by reason of noncompliance with the Equal Opportunity clause.

(e) Those the Department has determined to debar or suspend for cause under the conditions and procedures set forth in §§ 24–1.009 and 24–1.010.

(f) Those determined by an executive agency in accordance with section 3(b) of the Buy American Act (41 U.S.C. 10b (b)) to have failed to comply with the provisions of section 3(a) of that Act under any contract containing the specific provision required by said section 3(a) and made by the agency for construction, alteration, or repair of any public building or public work.

(g) Those found by the Secretary of Labor to have breached an agreement or representation that they are "manufacturers" or "regular dealers" within the meaning of section 1(a) of the Walsh-Healey Public Contracts Act (41 U.S.C. 35(a)) unless the Secretary of Labor has otherwise recommended under section 3 of such Act.

(h) Those who have failed to pay their debts to the Department within a reasonable period of time after a written demand for payment has been made in accordance with 4 CFR Part 102, Standards for the Administrative Collection of Claims and implementing HUD regulations.

§ 24–1.008 Treatment to be accorded contractors or grantees in debarred, suspended, or ineligible status.

Contractors or grantees listed as debarred, suspended, or ineligible shall be treated as follows:

(a) *Total restrictions.* Department funds shall not be expended for financial assistance to a contractor or grantee that is listed on the basis of § 24–1.007 (a), (b), (d), or (e); § 24–1.009(a) (1), (2), (3), (4), (5), (6), or (8); or to any concern, corporation, partnership, or association in which the former contractor or grantee has a substantial interest, nor shall bids or proposals be solicited therefrom. (Provided, under section 303(b)(2) of Executive Order 11246, debarment of an applicant is limited to the program with respect to which the noncompliance occurred.)

(b) *Restrictions under statutes designated in the regulations of the Secretary of Labor.* A contractor listed on the basis of § 24–1.007(c), or any concern, corporation, partnership, or association in which such contractor has a controlling interest, shall be ineligible for a period of 3 years (from the date of publication by the Comptroller General) to participate in any contracts subject to any of the statutes listed in § 24–1.007.

(c) *Buy American Act restrictions.* As specified in the Buy American Act (41 U.S.C. 10b(b)), contracts supported by Department funds shall not be awarded to contractors and grantees listed on the basis of § 24–1.007(f) for construction, alteration, or repaid of public works in the continental United States or elsewhere.

(d) *Ineligibility restrictions of the Walsh-Healey Act.* Contracts supported by Department funds shall not be awarded to a contractor or grantee in any amount exceeding $10,000 for those materials, supplies, articles, or equipment with respect to which the contractor or grantee has geen found to be ineligible to be awarded a contract by the Secretary of Labor, as provided in § 24–1.007(g). However, contractors or grantees on this basis may, in the discretion of the Department, be awarded such contracts and may be solicited for bids or proposals, for (1) such materials, supplies, articles, or equipment when the amount does not exceed $10,000; (2) services regardless of amount; and (3) commodities in which the contractor or grantee has not been declared ineligible, regardless of amount.

(e) *Restrictions on subcontracting.* Where a contractor or grantee listed on the debarred bidders' list is proposed as a subcontractor, the contracting officer or program officer should decline to approve subcontracting with that contractor or grantee unless it is determined by the Department to be in the best interest of the Government to do so. Such determination shall in no event be made in the case of debarment under § 24–1.007 (d).

§ 24–1.009 Causes and conditions applicable to determination of debarment.

Subject to the following conditions, the Department may debar a contractor or grantee in the public interest for any of the following causes:

(a) *Causes.* (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(2) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(3) Violation of contract provisions, as set forth below, of a character which is regarded by the Department to be so serious as to justify debarment action:

(i) Willful failure to perform in accordance with the specifications or within the time limit provided in the contract.

(ii) A record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts: *Provided,* That such failure or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.

(iii) Violation of the contractual provision against contingent fees.

(iv) Acceptance of a contingent fee, which is paid in violation of the contractual provision against contingent fees.

(v) Violation of the contractual provision requiring affirmative action to provide equal opportunity in the participant's own employment practices.

(4) Any other cause of such serious compelling nature, affecting responsibility, as may be determined in writing by the Secretary or his duly authorized representative to warrant debarment. Such determination shall clearly demonstrate that participation by the contractor or grantee would be harmful to the best interests of the public.

(5) Debarment by some other executive agency.

(6) Those debarred by procedures prescribed by section 512 of the National Housing Act.

(7) Those found by the Secretary, after hearing and in accordance with procedural requirements of implementing regulations, to have violated title VI of the Civil Rights Act of 1964. (Title VI and implementing regulations limit a withholding of financial assistance to the particular program, or part thereof, where the noncompliance occurred.)

(8) Those found by the Secretary to have violated any rule, regulation, or procedure issued or adopted pursuant to Executive Order 11063, or any nondiscrimination provision included in any agreement or contract pursuant to any such rule, regulation, or procedure.

(b) *Conditions.* (1) Debarment for any of the causes set forth in (a) of this § 24–1.009 shall be made only upon approval of the Secretary or his duly authorized representative.

(2) The existence of any of the causes set forth in paragraph (a) of this § 24–1.009 does not necessarily require that a contractor or grantee be debarred. In each instance, whether the offense or failure, or inadequacy of performance, be of a criminal, fraudulent, or serious nature, the decision to debar shall be made within the discretion of the Department and shall be rendered in the best interests of the Government. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, and in deciding whether debarment is warranted.

(3) The existence of a cause set forth in paragraph (a) (1) and (2) of this § 24–1.009 shall be established by criminal conviction by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal of the conviction, the debarment shall be removed upon the party's request (unless other cause for debarment exists).

(4) The existence of a cause set forth in paragraph (a) (1) and (2) of this § 24–1.009 shall be established upon the evidence presented as determined by the Department and consistent with pertinent statutes and regulations.

(5) Debarment for the cause set forth in paragraph (a)(5) of this § 24–1.009 (debarment by another agency) shall be proper provided that one of the causes for debarment set forth in paragraph (a) (1) through (4) of this § 24–1.009 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

(c) *Period of debarment.* (1) Debarment of a contractor or grantee for causes other than failure to comply with the provisions of Executive Order 11246 on Equal Employment Opportunity (see § 24–1.007(d)), or with title VI of the Civil Rights Act of 1964 (see paragraph (a)(7) of this section), shall be as a general rule for a period not to exceed 3 years. However, when debarment for an additional period is deemed necessary by the appropriate Assistant Secretary to protect Department interests and is consistent with applicable law, notice of the proposed additional debarment shall be furnished to that contractor or grantee in accordance with § 24–1.010. Except as otherwise provided by statute, a debarment may be removed or the period thereof may be reduced by the appropriate program officer, with the approval of the Assistant Secretary, upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed.

(2) Debarment of an organization or individual for failure to comply with the provisions of Executive Order 11246 on Equal Employment Opportunity or title VI of the Civil Rights Act of 1964, shall continue until removed in accordance with those authorities and applicable regulations.

§ 24–1.010 Procedural requirements relating to the imposition of debarment.

(a) *Initiation of debarment action.* When the Department seeks to debar a contractor or grantee (or any affiliate thereof), that party shall be served with written notice by registered mail from the program officer proposing the action: (1) Stating that debarment is being considered, (2) setting forth the reasons for the proposed debarment, and (3) indicating that such party will be accorded an opportunity for a hearing if he so requests within 10 days from his receipt of notice, and that he may be represented by counsel.

(b) *Hearing request*—(1) *Request for hearing.* Any contractor or grantee that has been notified of a proposed action is entitled to request an opportunity to be heard and to be represented by counsel. A hearing request shall be made in writing addressed to the program officer proposing the action. If at the end of such 10-day period no request has been received, the officer may assume that an opportunity to be heard is not desired, and may proceed to make a final determination and so notify the interested party.

(2) *Hearing; time and place.* Upon receipt of a request for an opportunity to be heard, the program officer shall arrange a timely hearing. Notice of the time and place of such hearing shall be in writing, transmitted by registered mail, return receipt requested, and shall include a statement indicating the informal nature of the proceedings and their purpose. It shall be within the discretion of the appropriate Assistant Secretary to determine the hearing place.

(3) *Determination.* Hearings shall be conducted by a Hearing Officer of the Department who shall be responsible for the fair and expeditious conduct of proceedings. The program office shall be represented by the General Counsel or his designee. A record shall be made of the proceeding and shall be made available to the parties upon request. After the contractor or grantee against whom action is proposed has been afforded an opportunity to be heard, the Hearing Officer shall make an initial written determination on the evidence presented. The Hearing Officer's determination shall be final unless reversed or modified within 30 days by the appropriate Assistant Secretary. Each determination shall become a part of the record. Notice of the final determination shall be given in writing, signed by the Assistant Secretary, and transmitted by registered mail, return receipt requested. The determination shall be conclusive.

(4) *Rescission and reinstatement.* Any contractor or grantee debarred from the benefits of participation may in writing request reinstatement any time after 6 months from the date of the debarment determination. The procedures for reinstatement are substantially similar to those invoked in the initial proceedings. However, conduct of the proceedings shall be the responsibility of the program officer. His determination to reinstate shall be subject to the approval of the appropriate Assistant Secretary. In reaching his determination regarding reinstatement the program officer must be satisfied that the original wrongful act has been righted and also be persuaded from the assurances of the party concerned that he understands the requirements of the statutes and the administrative rules and regulations and that he will comply with them in the future. When a debarment has been rescinded a report thereof shall be forwarded to the Director, Office of Investigation, by the program officer who shall forward notice of reinstatement to the party so reinstated.

(c) *Hearing Officers.* A Hearing Officer Panel shall be established and shall consist of not less than six attorneys appointed by the General Counsel to serve on a rotating basis.

(d) *Precedence of statutes and Executive orders.* Where an office of the Department is required by statute or Executive order to follow debarment or suspension procedures that may differ from the requirements of this part, the statutory or executive order procedures shall take precedence. The appropriate liaison officer shall provide the Director, Office of Investigation, with such statutes or Executive orders and all implementing materials.

§ 24–1.011 Suspension.

Suspension is a drastic action taken when there is suspicion of fraud or other criminal conduct in Government business or contractual dealings and, as such, shall not be based upon an unsupported accusation. A contractor or grantee is suspended pending investigation and appropriate action by the Department of Justice. In assessing whether adequate evidence exists for invoking a suspension, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of

corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment shall include an examination of basic documents, such as contracts, inspection reports, and correspondence. A suspension may be modified whenever it is determined to be in the interest of the Government to do so.

§ 24–1.012 Causes and conditions under which contractors or grantees may be suspended.

(a) The Assistant Secretaries of the Department may, in the interest of the Government, suspend a contractor or grantee:

(1) Suspected, upon adequate evidence, of—

(i) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract; or

(ii) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility; or

(2) For other causes of such serious and compelling nature, affecting responsibility as may be determined in writing by the Secretary or his designee to warrant suspension. The determination shall clearly demonstrate that the suspension is in the best interests of the Department.

(b) A suspension invoked by another agency for any of the causes set forth in paragraph (a) (1) and (2) of this § 24–1.012 may be the basis for the imposition of a concurrent suspension by the Department.

§ 24–1.013 Period and scope of suspension.

(a) *Period of suspension.* All suspensions shall be for a temporary period pending the completion of an investigation and such legal proceedings as may ensue. In cases involving suspected violations of Federal law where prosecutive action has not been initiated by the Department of Justice within 12 months from the date of the notice of suspension, the suspension shall be terminated unless an Assistant Attorney General requests continuance of the suspension. If such a request is received, the suspension may be continued for an additional 6 months. Notice of the proposed removal of the suspension shall be given to the Department of Justice 30 days prior to the expiration of the 12-month period. In no event shall a suspension continue beyond 18 months unless prosecutive action has been initiated within that period. Whenever prosecutive action has been initiated, the suspension may continue until the legal proceedings are completed. Upon removal of a suspension, consideration may be given to debarment in accordance with § 24–1.010.

(b) *Scope of suspension.* (1) Suspension may include all known affiliates of a contractor or grantee.

(2) A decision to include known affiliates in a proposed suspension is an individual determination and, as such, must be made on a case-by-case basis. Among the factors to be considered in making this determination are (i) likelihood of the affiliate's knowledge of or participation in the suspected improper conduct, and (ii) the impact of its suspension on Department programs.

(3) The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the organization with which he is connected when the impropriety involved was performed within the course of his official duty, or with knowledge or approval of the organization.

§ 24–1.014 Restrictions during period of suspension.

During a period of suspension of a contractor or grantee the following policies and procedures shall be applicable:

(a) Bids and proposals for financial assistance shall not be solicited from suspended contractors or grantees. If received, bids and proposals shall not be considered and awards for contracts shall not be made to suspended contractors or grantees unless it is determined by the Department to be in the best interest of the Government. A determination to consider such bids and make such awards shall include consideration of the unique value of the bidder's services and the degree to which the suspected improper conduct reflects upon the bidder's capacity to serve the Department.

(b) Suspended contractors will be subject to the provisions of § 24–1.008 regarding restrictions on subcontractors.

§ 24–1.015 Notice of suspension.

(a) The contractor or grantee concerned shall be furnished by registered mail a written notice of the suspension by the appropriate Assistant Secretary within 10 days after the effective date. The notice shall state as follows:

(1) The suspension is based (i) on the information that the contractor or grantee has committed irregularities of a serious nature in business dealings with the Government, or (ii) on irregularities which seriously reflect on the propriety of further dealings of the contractor or grantee with the Government. (The irregularities should be described in general terms without disclosing the Government's evidence.)

(2) The suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue.

(3) Bids and proposals for participation in a Department program will not be solicited from the contractor or grantee and, if received, will not be considered for award unless determined by the Department to be in the best interest of the Government.

(4) The suspension is effective throughout the Department. All inquiries concerning suspended parties shall be handled in accordance with Department procedures. Where a matter has been referred to the Department of Justice, the Department shall not give further information to the contractors or grantees concerning the reasons for suspension beyond that stated in the notice of suspension set forth in this § 24–1.015 until the Department of Justice has been advised of the inquiry and acquiesces in any such disclosure.

(5) The suspended party is entitled to request an opportunity to be heard and represented by counsel in accordance with § 24–1.010 of this part.

Effective date. This part shall be effective May 31, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71–6045 Filed 4–29–71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

Correction

In F.R. Doc. 71–5597 appearing at page 7584 in the issue of Thursday, April 22, 1971, a line should be added between the 14th and 15th lines of § 601.702(d) (12) reading "coming to their knowledge in their offi-".

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5048]

[Arizona 1112]

ARIZONA

Partial Revocation of Reclamation Project Withdrawals

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

1. The departmental orders of January 31, 1903, May 8, 1919, April 19, 1920, August 7, 1920, May 19, 1921, April 21, 1923, October 16, 1931, and March 3, 1933, and the order of the Bureau of Reclamation of December 1, 1950, concurred in by the Bureau of Land Management on October 29, 1951, and any other order or orders which withdrew lands for reclamation purposes, are hereby revoked so far as they affect the following described lands, except as to all lands lying inside

a line 300 feet landward from the high water mark, measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave, and the 1,229-foot elevation of Lake Mead:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 21 W.,
Sec. 17, S½;
Secs. 21, 29, 32, 33, all.
T. 22 N., R. 21 W.,
Sec. 18, N½, SE¼.
T. 22 N., R. 22 W.,
Secs. 1, 2, 11, 12, all fractional;
Sec. 13, N½, all fractional.
T. 23 N., R. 22 W.,
Secs. 1, 2, all;
Secs. 3, 10, all fractional;
Secs. 11, 12, 13, all;
Secs. 14, 15, 23, all fractional;
Secs. 24, 25, all;
Secs. 26, 35, 36, all fractional.
T. 24 N., R. 22 W.,
Secs. 2, 3, 4, 5, all;
Secs. 6, 7, 8, all fractional;
Secs. 9, 10, 11, 14, 15, all;
Secs. 16, 17, 21, 22, all fractional;
Secs. 23, 24, 25, 26, all;
Secs. 27, 34, all fractional;
Secs. 35, 36, all.
T. 25 N., R. 22 W. (partially unsurveyed),
Sec. 4, all;
Secs. 5, 6, 8, all fractional;
Secs. 9, 16, all;
Secs. 17, 20, 21, all fractional;
Sec. 28, all;
Secs. 29, 30, 31, 32, all fractional;
Sec. 33, all.
T. 26 N., R. 22 W. (unsurveyed),
Sec. 5, all;
Secs. 6, 7, all fractional;
Secs. 8, 17, all;
Secs. 18, 19, 20, all fractional;
Secs. 21, 28, all;
Secs. 29, 32, all fractional;
Sec. 33, all.
T. 27 N., R. 22 W. (unsurveyed),
Secs. 7, 18, 19, all;
Secs. 30, 31, all fractional;
Sec. 32, all.
T. 27 N., R. 23 W. (unsurveyed),
Secs. 12, 13, 24, 25, all fractional.
T. 28 N., R. 22 W. (unsurveyed),
Sec. 1, NE¼, S½NW¼, S½;
Sec. 2, S½, SE¼NE¼;
Sec. 3, S½SE¼.
T. 29 N., R. 17 W.,
Secs. 5, 6, all lands lying within 6 miles of the Colorado River.
T. 29 N., R. 18 W. (partially unsurveyed),
Secs. 1 through 6, all lands lying within 6 miles of the Colorado River.
T. 29 N., R. 19 W. (unsurveyed),
Secs. 1, 2, all lands lying within 6 miles of the Colorado River.
T. 29 N., R. 22 W. (unsurveyed),
Sec. 6, SW¼SW¼;
Sec. 7, W½NE¼, SE¼NE¼, NW¼, S½;
Sec. 8, SW¼, S½SE¼;
Sec. 15, SW¼;
Sec. 16, S½, S½NE¼, NW¼;
Sec. 17, all;
Secs. 18, 19, 20, all fractional;
Sec. 21, all;
Sec. 22, S½, SW¼NE¼, NW¼;
Sec. 26, SW¼, W½NW¼;
Secs. 27, 28, all;
Secs. 29, 31, 32, all fractional;
Sec. 33, all;
Sec. 34, N½, N½S½, SW¼SW¼;
Sec. 35, NW¼, NW¼NE¼.
Sec. 1 S½, SE¼NW¼SE¼, all fractional of SW¼;
Secs. 12, 13, 36, all fractional.
T. 30 N., R. 14 W. (partially unsurveyed),
All fractional township.
T. 30 N., R. 16 W. (partially unsurveyed),
Secs. 5, 6, 7, 8, 18, all.
T. 30 N., R. 17 W. (partially unsurveyed),
Secs. 1, 2, 3, all;
Secs. 4, 5, 6, 7, 8, all fractional;
Secs. 9, 10, 11, 12, 14 through 22, all;
Secs. 28 through 32, all;
Secs. 13, 23, 24, 26, 27, 33, 34, all lands lying within 6 miles of the Colorado River.
T. 30 N., R. 18 W. (partially unsurveyed),
Secs. 1, 2, 3, 4, 6, 7, 8, 9, all fractional;
Secs. 10 through 16, all;
Secs. 17, 18, all fractional;
Secs. 19 through 36, all.
T. 30 N., R. 19 W. (partially unsurveyed),
Secs. 5 through 10, all;
Secs. 13 through 17, all;
Secs. 21 through 27, all;
Sec. 36, all;
Secs. 18, 19, 20, 28, 29, 33, 34, 35, all lands lying within 6 miles of the Colorado River.
T. 30 N., R. 20 W. (partially unsurveyed),
Sec. 1, all;
Secs. 12, 13, all lands lying within 6 miles of the Colorado River.
T. 30 N., R. 22 W. (unsurveyed),
Secs. 3, 4, 5, 6, all;
Sec. 7, N½SW¼, SE¼SW¼, SE¼, N½;
Secs. 8, 9, all;
Sec. 16, all;
Sec. 17, N½SW¼, SE¼SW¼, SE¼, N½;
Sec. 18, N½NE¼;
Sec. 20, N½NE¼, SE¼NE¼;
Sec. 21, N½SW¼, SE¼SW¼, SE¼, N½;
Sec. 27, N½SW¼, SE¼SW¼, SE¼, N½;
Sec. 28, NE¼;
Sec. 34, NE¼;
Secs. 2, 10, 11, 14, 15, 22, 23, 26, 35, 36, all lands lying within 6 miles of the Colorado River.
T. 30 N., R. 23 W.,
Sec. 1, N½SW¼, SE¼SW¼, SE¼, N½;
Sec. 2, lots 1 and 2, SE¼NE¼;
Sec. 12, N½NE¼.
T. 30½ N., R. 14 W. (unsurveyed),
Secs. 34, 35, 36, all.
T. 31 N., R. 14 W. (partially unsurveyed),
All fractional township.
T. 31 N., R. 15 W. (partially unsurveyed),
All fractional township.
T. 31 N., R. 16 W. (unsurveyed),
All fractional township.
T. 31 N., R. 17 W.,
Secs. 1, 2, all;
Secs. 3, 4, 10, all fractional;
Secs. 11, 12, 13, 14, all;
Secs. 15, 16, 21, all fractional;
Secs. 22 through 27, all;
Secs. 28, 29, 32, all fractional;
Secs. 33, 34, 35, 36, all.
T. 31 N., R. 22 W. (unsurveyed),
Secs. 1, 2, 3, all;
Secs. 4, 5, 7, all fractional;
Secs. 8 through 36, all.
T. 31 N., R. 23 W.,
Sec. 12, all fractional;
Sec. 13, all;
Secs. 14, 23, all fractional;
Sec. 24, all;
Secs. 25, 26, all fractional;
Sec. 35, E½, all fractional;
Sec. 36, all fractional.
T. 32 N., R. 15 W. (unsurveyed),
All fractional township.
T. 32 N., R. 16 W. (unsurveyed),
All fractional township.
T. 32 N., R. 17 W. (unsurveyed),
Secs. 1, 11, 12, 13, 14, 22, 23, all fractional;
Secs. 24, 25, all;
Secs. 26, 27, 33, 34, 35, all fractional;
Sec. 36, all.
T. 32 N., R. 22 W. (unsurveyed),
Secs. 24 through 28, all fractional;
Secs. 32 through 36, all fractional.
T. 32½ N., R. 15 W. (unsurveyed),[1]
Secs. 31 through 36, all.
T. 32½ N., R. 16 W. (unsurveyed),[1]
Secs. 31, 32, 33, all fractional;
Secs. 34, 35, 36, all.
T. 33 N., R. 15 W. (unsurveyed),
Secs. 4 through 9, all;
Secs. 16 through 21, all;
Secs. 28 through 33, all.
T. 33 N., R. 16 W.,
All fractional township.

The areas described aggregate approximately 365,600 acres in Mohave County.

The lands involved are located near the Colorado River, Lake Mead and Lake Mohave, and are desert in character. Included in the area are some patented and State owned lands, as well as lands remaining under withdrawal or reserved for the Hualapai Indian Reservation, waterpower purposes, national monument purposes and the Lake Mead National Recreation Area.

Most of the public lands described in paragraph 1 of this order lie within the Lake Mead National Recreation Area, established under authority of the Act of October 8, 1964, 78 Stat. 1039, 16 U.S.C. section 460n, and remain closed to location, settlement, and entry under the public land laws, including the mining laws, and will be administered by the National Park Service in accordance with the provisions of said act.

2. A portion of the Federal lands described in paragraph 1, and also redescribed below, lie outside of the boundaries of the Lake Mead National Recreation Area, but these lands will remain subject to the provisions of Executive Order No. 5339, dated April 25, 1930, which, pursuant to the Act of June 25, 1910, 36 Stat. 847, as amended by the Act of August 24, 1912, 37 Stat. 497, temporarily withdrew the lands for classification pending determination as to the advisability of including such lands in a national monument:

GILA AND SALT RIVER MERIDIAN

T. 30 N., R. 17 W.,
Sec. 28, all;
Secs. 23, 24, 26, 27, 33, 34, all lands lying outside the Lake Mead National Recreation Area boundary but within 6 miles of the Colorado River.
T. 30 N., R. 19 W. (unsurveyed),
Sec. 29, all lands lying outside of the Lake Mead National Recreation Area boundary but within 6 miles of the Colorado River.
T. 30 N., R. 22 W. (unsurveyed),
Secs. 2, 11, 14, 23, 26, 35, 36, all lands lying outside the Lake Mead National Recreation Area boundary but within 6 miles of the Colorado River.

The areas described in paragraph 2 aggregate approximately 4,240 acres of public lands, and these lands are open to location and entry under the United States mining laws for metalliferous minerals only.

All other lands described in paragraph 1 of this order, lying outside the Lake Mead National Recreation Area, are privately or State owned and therefore will

[1] Area unsurveyed and probably covered by Secretary's Order of May 8, 1919, and partially affected by Department Order of Jan. 31, 1903.

not be open to appropriation under the public land laws.

Inquiries concerning the lands described in this order should be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Ariz., or the Superintendent, Lake Mead National Recreation Area, Post Office Box 127, Boulder City, NE 89005.

ORME LEWIS, Jr.,
Deputy Assistant Secretary of the Interior.

APRIL 22, 1971.

[FR Doc.71-6028 Filed 4-29-71;8:46 am]

Title 45—PUBLIC WELFARE

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

PART 132—GRANTS FOR TRAINING IN LIBRARIANSHIP

Notice is hereby given that the regulations set forth below (made pursuant to secs. 221–223, 79 Stat. 1227, 20 U.S.C. 1031–1033) prescribe certain policies and requirements for Training in Librarianship under title II–B of the Higher Education Act of 1965, as amended.

Interested persons who wish to submit comments, suggestions, or objections pertaining thereto may present their views in writing to the Commissioner, Office of Education, Department of Health, Education and Welfare, 400 Maryland Avenue SW., Washington, DC 20202 within a period of 30 days from the date of publication in the FEDERAL REGISTER. The final regulations will be codified in Title 45 of the Code of Federal Regulations.

Sec.

AUTHORITY: The provisions of this Part 132 issued under sections 221–223, 79 Stat. 1227, 20 U.S.C. 1031–1033.

§ 132.1 Applicability.

The regulations in this part apply to grants by the U.S. Commissioner of Education to institutions of higher education to assist them in training persons in librarianship under title II–B of the Higher Education Act of 1965 (20 U.S.C. 1031–1033). Such grants are also subject to the requirements of title VI of the Civil Rights Act of 1964, approved July 2, 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d et seq.). Section 601 of that Act provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Therefore, Federal financial assistance pursuant to this part is subject to the regulation in 45 CFR Part 80. (20 U.S.C. 1031–1033, 42 U.S.C. 2000d et seq.)

§ 132.2 Definitions.

As used in this part:

(a) "Act" means the Higher Education Act of 1965, as amended (20 U.S.C. 1001–1150).

(b) "Commsisioner" means the U.S. Commissioner of Education.

(c) "Department" means the U.S. Department of Health, Education, and Welfare.

(d) "Fellowship" means an award to participants engaged in a regular academic program of formal education in an institution of higher education for which are awarded credits that may be used to earn an academic degree.

(e) "Fiscal year" means the period beginning on July 1 and ending on the following June 30, and designated by the calendar year in which the fiscal year ends.

(f) "Institute" means an intensive short-term or regular-session program of specialized training designed to train individuals in particular principles and practices of librarianship.

(g) "Institution of higher education" means an educational institution in any State which meets all of the following criteria:

(1) It admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

(2) It is legally authorized within such State to provide a program of education beyond secondary education.

(3) It provides at least one of the following types of programs:

(i) An educational program for which it awards a bachelor's degree.

(ii) A program or not less than 2 years which is acceptable for full credit toward a bachelor's degree.

(iii) A program of not less than 1 year of training to prepare students for gainful employment in a recognized occupation.

(4) It is a public or other nonprofit institution.

(5) It is either accredited by a nationally recognized accrediting agency or association, or meets at least one of the following requirements:

(i) It is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or organization within a reasonable period of time.

(ii) It is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(h) "Librarianship" means the principles and practices of the library and information sciences, including the acquisition, organization, storage, retrieval, and dissemination of information, and reference and research use of library and other information resources.

(i) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

(j) "Traineeship" means an award to participants enrolled in a directed training program which is not a regular academic program of the type described in paragraph (d) of this section (20) U.S.C. 1032, 1141)

§ 132.3 Eligible purposes.

Funds available under title II–B of the Act may be used by the Commissioner to award grants to institutions of higher education for any one or more of the following purposes:

(a) To assist in covering the cost of courses of training or study (including institutes) for such persons;

(b) For establishing and maintaining fellowships or traineeships with stipends (including allowances for traveling, subsistence, and other expenses) for fellows and others undergoing training and their dependents not in excess of such maximum amounts as may be prescribed by the Commissioner; and

(c) For establishing, developing, or expanding programs of library and information science. (20 U.S.C. 1033)

§ 132.4 Eligible participants.

An individual may be enrolled as a participant in training programs assisted with Federal funds under this part provided that such individual:

(a) Is a national of the United States or is in the United States for other than a temporary purpose and intends to become a permanent resident thereof; and

(b) Is either engaged in or preparing to engage in a profession or other occupation involving librarianship. (20 U.S.C. 1032, 1033)

§ 132.5 Applications for grants.

(a) Any institution of higher education may file on or before the cutoff date

or dates announced by the Commissioner for each fiscal year an application in accordance with such forms and instructions as may be prescribed by him. Such application shall contain—

(1) Such fiscal control and funding accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant, which meet the requirements of § 132.12;

(2) Such program accountability and evaluation procedures as may be necessary to assure that the purposes of the training program are being accomplished which meets the requirements of § 132.13;

(3) An assurance that no fees or charges will be collected from participants as a condition of enrollment or participation in or completion of any training; and

(4) Such other pertinent information as the Commissioner may require.

(b) The application shall be executed by an individual authorized to act for the applicant. Applications and requests for information may be sent to the Director, Division of Library Programs, Bureau of Libraries and Educational Technology, U.S. Office of Education, Washington, D.C. 20202. (20 U.S.C. 1033)

§ 132.6 Review of applications.

The Commissioner will approve applications for a grant under this part only after such application has been reviewed by a panel of experts and specialists, and in accordance with such other procedures as the Commissioner may establish. Such review will take into account such factors as:

(a) The number of persons to be trained in the program;

(b) Adequacy of qualifications and experience of personnel designated to carry out the training program;

(c) Adequacy of facilities, equipment, and materials to be used in the training program;

(d) Reasonableness of estimated cost in relation to anticipated results;

(e) Sufficiency of size, scope, and duration of the training program so as to make a significant contribution to meeting overall needs for persons trained in librarianship;

(f) Quality and suitability of curricula in the training program;

(g) Experience of the applicant institution with similar training programs;

(h) Criteria for selection of participants;

(i) Extent to which the applicant institution will contribute its own resources to the proposed training program; and maintain, expand, and improve its other training programs in librarianship;

(j) Potential for achieving innovative and exemplary training programs; and

(k) Priorities which may be determined by the Commissioner. (20 U.S.C. 1033)

§ 132.7 Disposition of applications.

On the basis of his review of an application pursuant to § 132.6, the Commissioner will either (a) approve the application in whole or in part, (b) disapprove the application, or (c) defer action on the application for such reasons as lack of funds or a need for further review. Any deferral or disapproval of an application shall not preclude its reconsideration or resubmission. The Commissioner will notify the applicant in writing of the disposition of the application. The grant award document will incorporate the grant terms and conditions in this part and include such other provisions as appropriate. (20 U.S.C. 1033)

§ 132.8 Payment procedure.

Federal payments pursuant to a grant under this subpart may be made either in advance or by way of reimbursement, to be determined consistent with the nature of the activities and the services involved in the training program, and in accordance with the applicable requirements of these regulations and the terms and conditions of the grant award. (20 U.S.C. 1033, 1232d)

§ 132.9 Amount of grant.

The amount of the grant shall be set forth in the grant award document. The total cost to the Government for the performance of the training program will not exceed the amount set forth in the grant award document or any appropriate modification thereof. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amount unless or until the Commissioner has notified the grantee in writing that such amount has been increased and has specified such increased amount in a revised grant award document pursuant to § 132.11. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant. (20 U.S.C. 1033)

§ 132.10 Duration of the training program.

(a) All payments made with respect to each grant shall remain available for expenditures during the budget period specified in the grant award document or until otherwise terminated in accordance with § 132.20. Such period may be extended by revision of the grant without additional funds pursuant to paragraph (b) of this section. (20 U.S.C. 1033)

(b) When it is determined that special or unusual circumstances will delay the completion of the program or project for more than 3 months beyond the period for which the grant is awarded, the grantee shall in writing request the Commissioner to extend such period and shall indicate the reasons therefor.

§ 132.11 Revisions.

(a) In order for a grant to be substantially changed, or for the amount of the grant award to be increased pursuant to § 132.9, the grantee shall submit to the Commissioner a written request therefor. Minor deviations of specific amounts of expenditures among categories from those estimated in the budget set forth in the grant award document will not require revision of such application.

(b) Requests for revisions shall be submitted in writing for approval by the Commissioner. Such revisions may be initiated by the Commissioner if, on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing such grants. (20 U.S.C. 1033)

§ 132.12 Fiscal accounting and auditing procedures.

(a) *Fiscal accounting.* The grantee shall maintain accounts, records, and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired, in connection with the grant. The system of accounting employed by the grantee shall be in accordance with generally accepted accounting principles and will be applied in a consistent manner so that expenditures under the grant may be clearly identified.

(b) *Cost sharing records.* When the grant award requires cost sharing, the grantee shall maintain records which demonstrate that its contributions to the training program are not less, in proportion to the charges against the grant, than the amount specified in the grant award document, or any subsequent revision thereof.

(c) *Auditing records.* Each grantee shall make appropriate provision for the auditing of the program or project expenditure records referred to in paragraphs (a) and (b) of this section. Such audits shall be in accordance with generally accepted auditing standards, which shall be no less in scope and coverage than those standards which may be prescribed by the Department. Such expenditure records, the reports of such audits, and other records relating to the grant shall be subject to inspection and audit by the representatives of the Federal Government at all reasonable times during the period of retention provided for in § 132.16.

(d) *Adjustments.* Each grantee shall, in maintaining program expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from administrative reviews and audits by the Federal Government or by the grantee. Such adjustments shall be set forth in the financial reports filed with the Commissioner. (20 U.S.C. 1033, 1232c)

§ 132.13 Program accountability and evaluation procedures.

Each program or project proposal shall include an evaluation plan to be carried out by a third party for the purpose of evaluating the effectiveness of the program or project. Such plan shall describe the steps by which the grantee will:

(a) Determine the extent to which the objectives of the program or project have been accomplished;

(b) Determine what factors either enabled or precluded the accomplishment of these objectives; and

(c) Promote the inclusion of the successful aspects of the program or project into adult education programs supported with funds other than those provided under the grant. (20 U.S.C. 1033)

§ 132.14 Allowable costs.

Except as otherwise indicated in paragraph (b) of this section, allowable costs for any approved grant shall be determined in accordance with, and governed by, the principles and procedures set forth in the Office of Management and Budget Circular A–21 and any other Federal requirements concerning cost determination as may be applicable; except that—

(a) There may be included in direct costs for payments to training program participants only those allowances provided for in § 132.15, and

(b) Indirect costs chargeable to the grant shall be limited to actual indirect costs or a fixed rate of 8 percent of allowable direct costs (including the allowances referred to in paragraph (a) of this section), whichever is less.

(c) Travel allowances to other than training program participants shall be paid in accordance with applicable State and local laws and regulations and agency and institutional practices. If there are no such applicable laws, regulations, and practices, travel cost shall be in accordance with the Standardized United States Government Travel Regulations (Office of Management and Budget Circular No. A–7). No foreign travel will be authorized under the grant unless prior approval is obtained from the Commissioner. (20 U.S.C. 1033)

§ 132.15 Stipends and travel allowances for participants.

(a) Stipends, travel allowances and dependency allowances shall be authorized at levels established by the Commission and consistent with prevailing practices in other comparable Federal programs.

(b) Any amounts received under any other Federal grant program (except veterans' and war orphans' and widows' educational assistance under title 38, United States Code) shall be set off against the amount which a participant otherwise would be entitled to receive under this part. A participant shall not be precluded from receiving a loan that is made, insured, or reinsured under any Federal educational loan program, and neither the amount of such loan nor any Federal interest payment made during the period of his participation in a training program shall be deducted from the amount received by the participant under this part.

(c) Allowances may be paid for a participant's travel expenses for one round trip between each participant's home beyond a reasonable commuting distance and the place at which the training program is conducted. In addition, allowances may also be paid for a participant's daily commuting travel for a reasonable distance upon determination by the Commissioner that such allowances are necessary for successful participation in the program and that extreme need and hardship exist. Such travel may be performed either by public or private conveyance; but if performed by private conveyance, the allowance for such travel shall not exceed eight cents per mile or the common carrier cost of such travel, whichever is less. (20 U.S.C. 1033, 38 U.S.C. 1781)

§ 132.16 Retention of records.

(a) Each grantee shall provide for keeping accessible and intact all records relating to the receipt and expenditure of Federal grant funds and to the expenditure of the grantee's contribution to the cost of the training program, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the grant. Such records shall be retained for 3 years after the end of the budget period if audit by or on behalf of the Department has occurred by that time; or if such audit has not occurred by that time:

(1) Until the grantee is notified of the completion of such audit, or

(2) For 5 years following the end of the budget period, whichever is earlier.

(b) The records involved in any claim or expenditure which has been questioned by the Federal audit shall be further retained until resolution of any such audit questions. (20 U.S.C. 1033, 1232c)

§ 132.17 Reports.

The grantee shall submit such fiscal and program reports as may be required by the Commissioner and in the quantity and at the time stated in the report schedule which shall be set forth in the grant award document. (20 U.S.C. 1033)

§ 132.18 Publications.

(a) Material produced as a result of any program supported with grants under this part may be published without prior review by the Commissioner: *Provided*, That (1) 15 copies of such material shall be furnished to the Commissioner; (2) that no such materials may be published for sale without the prior approval of the Commissioner, which approval shall be subject to such requirements as he deems appropriate, and (3) that no motion pictures for viewing by the general public shall be produced without prior clearance by the Department. All such published material shall contain the following statement:

> The program presented or reported herein was performed pursuant to a grant from the U.S. Office of Education, Department of Health, Education and Welfare. The opinions expressed herein, however, do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

(b) All printing or duplicating authorized under a grant under this part shall be subject to the restrictions and limitations contained in the current issue of the "Printing and Binding Regulations," published by the Joint Committee on Printing, Congress of the United States. (20 U.S.C. 1033; 44 U.S.C. 103, 501, 502)

§ 132.19 Patents and copyrights.

(a) Any material of a copyrightable nature produced through a program supported with grants under this part shall be subject to the copyright policy of the U.S. Office of Education set forth in its Copyright Guidelines of May 9, 1970 (35 F.R. 7317) or any modification thereof in effect at the time of the grant. Provisions implementing this policy will be included in the terms and conditions of the grant award document.

(b) Any material of a patentable nature produced through a program supported with grants under this part shall be subject to the provisions of Parts 6 and 8 of this title. Provisions implementing these parts will be included in the terms and conditions of the grant award document. (20 U.S.C. 1033)

§ 132.20 Termination of grant.

(a) Any grant may be terminated by the Commissioner—

(1) If he determines that the program is no longer susceptible of productive results or

(2) If the grantee fails to comply with any grant requirement or condition.

(b) Where action is taken under this section, the Commissioner may authorize the expenditure of Federal funds in such amounts as he deems necessary for the purpose of terminating the program financed by the grant which is being terminated. (20 U.S.C. 1033)

§ 132.21 Use of and accountability for equipment.

(a) *Definition.* As used in this section, the term "equipment" means nonconsumable personal property procured or fabricated which is complete in itself, is of a durable nature and has an expected useful life of more than 1 year.

(b) *Use.* Equipment purchased with grant funds shall be used only to accomplish the purposes of the grant. The grantee shall certify in its application that the equipment being acquired is not already on hand and that it will safeguard and protect all such equipment in accordance with prudent property management practices.

(c) *Accountability.* The grantee shall maintain records of all equipment procured or fabricated under the grant and costing more than $300 or having a residual value of more than $100. Such equipment may not be disposed of by the grantee without the prior consent of the Commissioner and shall, upon the expiration or termination of the grant, be made available by the grantee for such disposition as the Commissioner may direct in accordance with the applicable provisions of the Department's Grants Administration Manual, Chapter 1–410. (20 U.S.C. 1033)

§ 132.22 Sale of goods and services.

The grantee shall obtain from the Commissioner prior approval of any sale

of goods and services resulting from the program and such approval will be subject to the condition that the proceeds from such sales will be disposed of in either one of the following two ways:

(a) Returning the funds to the Federal Government by (1) reducing the level of expenditures from grant funds by an amount equal to the Federal share of the grant related income, (2) treating the funds as a partial payment to the award of a succeeding (continuation) grant, or (3) payment to miscellaneous receipts of the Treasury, or

(b) Using the funds to further the purposes of the grant program from which the award was made. (20 U.S.C. 1033)

§ 132.23 Service contracts.

The grantee may enter into contracts or agreements for the provision of part of the services to be provided under the grant by other appropriate public or private agencies or institutions. Such contract or agreement shall incorporate the regulations of this part and other applicable Federal requirements, describe the services to be provided for the agency or institution, and contain provisions assuring that the grantee will retain supervision and administrative control over the provision of services under this contract or agreement. Services to be provided by contract or agreement pursuant to this section shall be specified in the program proposal or in an amendment thereto, and the proposed contract or agreement shall be submitted to the Commissioner for prior approval. (20 U.S.C. 1033)

§ 132.24 Changes in key personnel.

If for any reason it becomes necessary to substitute the program director or other key professional staff listed in the program proposal, the grantee shall in writing request the approval by the Commissioner of such substitution. Such written request shall include the name and qualifications of the successor. (20 U.S.C. 1033)

§ 132.25 Dual compensation.

If a program staff member or consultant is involved simultaneously in two or more programs or projects supported by Federal funds either under this part or otherwise, he may not be compensated for more than 100 percent of his time from Federal funds during any part of the period of dual involvement. The grantee shall not use any grant or funds from other sources to pay a fee to, or travel expenses of, employees of the Department of Health, Education, and Welfare for lectures, attending program functions, or any other activities in connection with the grant. (20 U.S.C. 1033)

§ 132.26 Interest on grants.

Interest earned on any cash advances made to grantees under this part other than States shall be credited to the United States. The grantee shall submit as a part of each financial report required under the grant a statement showing the amount of interest earned on Federal funds during the period covered by the report. (20 U.S.C. 1033)

§ 132.27 Final accounting.

In addition to such other accounting as the Commissioner may require, the grantee shall render, with respect to the program under the grant, a full account of

(a) Funds expended, obligated, and remaining under the grant;

(b) All equipment and supplies purchased with Federal funds for which accountability is required by § 132.21(c);

(c) All instructional materials developed for use in the program or project; and

(d) All salable items resulting from the program or project. A report of such accounting shall be submitted to the Commissioner within 60 days of the expiration or termination of the grant, and the grantee shall remit within 30 days of the receipt of a written request therefor any amounts found by the Commissioner to be due. (20 U.S.C.1033)

Dated: March 17, 1971.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

Approved: April 22, 1971.

ELLIOTT L. RICHARDSON,
Secretary, Health, Education, and Welfare.

[FR Doc.71-6044 Filed 4-29-71;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

Regional Spectrum Management Center, Chicago, Ill.; Establishment

Order. 1. The amendment to Part 0 of the rules and regulations set forth below is editorial in nature; it adds a new paragraph (g) to § 0.401 to reflect the establishment and location of a Regional Spectrum Management Center in Chicago, Ill., to conform with the action taken by the Commission on February 1, 1971 (FCC 71-102).

2. Authority for the attached amendment is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, and § 0.261 of the Commission's rules and regulations.

3. Because the amendment relates to internal Commission organization and because it is editorial in nature, the prior notice and effective date provisions of 5 U.S.C. 553, do not apply.

4. In view of the foregoing: *It is ordered,* That effective April 30, 1971, Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: April 23, 1971.

Released: April 26, 1971.

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

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 0.401 a new paragraph (g) is added, to read as follows:

§ 0.401 Location of Commission Offices.

* * * * *

(g) A Regional Spectrum Management Center is located in Chicago, Ill. The mailing address for this office is:

Federal Communications Commission, Regional Spectrum Management Center, 219 South Dearborn Street, Chicago, IL 60604.

[FR Doc.71-6005 Filed 4-29-71;8:45 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Dockets Nos. 1-9 and 1-10; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection; Passenger Cars

Correction

In F.R. Doc. 71-5234 appearing at page 7218 in the issue of April 16, 1971 (Standard No. 215 of § 571.21), in S7.2.4 the sixth line reading "plane at an angle of 30° to the vertical" should be transferred down two lines to appear as the third line from the bottom of that paragraph.

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 777]

PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Proposed Refund Rate of Flour Second Clears

Notice is hereby given pursuant to section 4a, Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553), that the Agricultural Stabilization and Conservation Service proposes to issue Amendment 8 to the Republication of the Processor Wheat Marketing Certificate Regulations (33 F.R. 14676).

Consideration will be given to all written comments or suggestions in connection with the proposed amendment filed in duplicate with the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, during the 30-day period beginning with the date this notice is published in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (7 CFR 1.27(b)).

The proposed amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (see secs. 379a to 379j, 52 Stat. 31, as amended, 7 U.S.C. 1379a to 1379j), to provide a rate for refunds of the certificate cost for wheat used in processing flour second clears not used for human consumption to cover the period July 1, 1971, through June 30, 1974. The refund rate is determined on the basis of the most recent available industry average extraction rate which was obtained through a departmental survey made in connection with wheat processed during the 1969–70 marketing year. In the absence of more recent data, it has been determined that continuation of the existing rate is warranted. Accordingly, it is proposed that the following amendment be issued to extend the current refund rate applicable to flour second clears not used for human consumption through the marketing year beginning July 1, 1973.

The proposed amendment of 7 CFR PART 777 would read as follows:

Section 777.19(e) is amended by changing the penultimate sentence to read as follows:

§ 777.19 Industrial users of flour second clears.

* * * * *

(e) *Refund rate.* * * * The refund rate for the marketing years covered by the period beginning July 1, 1970, through June 30, 1974, shall be $1.67 per hundredweight, which was determined on the basis of a conversion factor of 2.230 multiplied by the applicable certificate cost rounded to the nearest cent. * * *

Signed at Washington, D.C., on April 23, 1971.

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

[FR Doc.71-6042 Filed 4-29-71;8:47 am]

Consumer and Marketing Service

[7 CFR Part 1030]

[Docket No. AO 361-A2-RO2]

MILK IN CHICAGO REGIONAL MARKETING AREA

Notice of Revised Partial Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this revised partial recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chicago regional marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Chicago, Ill., and Oshkosh, Wis., on August 20–27 1969, pursuant to notice thereof issued on July 25, 1969 (34 F.R. 12529) and at Madison, Wis., on October 20 and 21, 1970, pursuant to notices thereof which were issued August 3, 1970 (35 F.R. 12545) and August 21, 1970 (35 F.R. 13660).

The material issues on the record of the hearing relate to:

1. Pool plant performance requirements for supply plants and reload points.
2. Diversion of producer milk.
3. Allocating to class I milk specified receipts from a producer-handler.

This decision deals only with issues No. 1 and 2. Issue No. 3 was considered previously in a separate decision.

Issues No. 1 and 2 of this hearing represent a partial reopening of the hearing held August 20–27, 1969, in Chicago, Ill., and Oshkosh, Wis., which concerned these two issues plus several others.

The Deputy Administrator on February 27, 1970, issued a recommended decision based on the August 20–27, 1969, hearing record.

Based on the exceptions received to this recommended decision the Assistant Secretary found in his July 13, 1970, decision that in the public interest the hearing should be reopened for the purpose of receiving additional pertinent evidence upon which a full and comprehensive reexamination of the supply plant performance requirements could be made. Since the hearing was to be reopened with respect to additional performance requirements for supply plants, it was further concluded that any change in the limits on diversions should be considered in conjunction therewith.

The findings and conclusions set forth below represent this reexamination of the supply plant performance requirements and the provisions relating to the diversion of producer milk.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on issues No. 1 and No. 2 are based on evidence presented at the hearing and the record thereof:

1. *Pool plant performance requirements for supply plants.* The provisions of the order pertaining to the shipments of milk from supply plants to distributing plants should be modified to better effect the intent of the present monthly shipping standards prescribed for pool plant status of supply plants. Briefly, the order should prescribe (1) that only net quantities of milk received at a distributing plant from any supply plant be used in determining supply plant shipping performance, (2) that the milk storage tanks in a supply plant other than a reload facility have the capacity to hold the largest quantity of milk either received at or shipped from the plant, and (3) that only milk physically unloaded into a storage tank or into another tank trunk at a plant shall be considered as received at such plant.

Present provisions. Two different types of supply plants that qualify for pool plant status by performing similar supply functions are described in the order. One type is the plant that assembles milk received from dairy farmers for shipment when needed to a distributing plant. Any receipts of milk not shipped to a distributing plant is processed into manufactured products either within the plant or at a nonpool manufacturing plant. Often this type of supply plant operation is a grade A receiving room containing stationary storage tanks located in a manufacturing plant.

The other type of supply plant (commonly referred to as a "reload station") is a building in which milk that is picked up at farms in small farm bulk tank trucks is transferred into a larger over-the-road tank truck for transshipment to a distributing plant or a manufacturing plant. Although a reload station usually does not contain a holding tank there are certain requirements in the order it must meet. Such facilities must be a building approved by an appropriate health authority which has facilities adequate for cleansing tank trucks and at which milk moved from the farm is transferred and commingled in another tank truck with other milk for transshipment.

Both of these types of operations are considered supply plants and qualify for pooling on the basis of the shipping requirements set forth below.

A supply plant presently qualifies for pooling by shipping at least 40 percent of its milk received from producers (including producer milk diverted) to pool distributing plants and producer-handler plants, and to any partially regulated distributing plant as class I milk to the extent of the latter's distribution of class I milk in the marketing area, during September, October, and November, and by shipping 30 percent thereof in such manner in all other months.

The Director of the Dairy Division is authorized to increase or decrease these percentages as much as 10 percentage points during any month August through December if supply conditions warrant. Also, supply plants that qualify as pool plants during each month of August–December retain their pool status during the next 7 months regardless of the amount shipped. For the purpose of shipping performance, a handler, or two or more cooperatives, may qualify two or more supply plants as a unit.

Proposals. A group of operating cooperatives proposed that in order to qualify for pool status a supply plant be required to ship 20 percent of its milk to distributing plants during January, February, March, and July, and 10 percent during April, May, and June as opposed to the present automatic qualification during such months of any plant pooled in the preceding August–December period. They proposed also that the order require milk to be physically received in a plant to be considered a receipt at the plant, and that for measuring shipping performance only net receipts at a distributing plant from a supply plant (i.e., receipts less any return shipments) should be counted.

Other proposals by two bargaining cooperatives would either eliminate, or add further restrictions to, the unit pooling of supply plants.

Intent of provisions. The shipping performance requirements for pooling supply plants are included in the order basically to identify those plants engaged in supplying the market regularly and to aid in assuring an adequate supply of milk for the market. All supply plants, or units of supply plants, that share in the marketwide pooling of producer returns should be expected to participate in meeting the demands of the fluid market.

Distributing plants in the densely populated Chicago metropolitan segment of the marketing area depend on receipts of milk from distant supply plants in Wisconsin for about 80 percent of their fluid milk requirements. The volume of milk needed each day by distributing plants, however, varies greatly during the week, since such plants usually operate only 5 days per week and their sales of milk to stores also vary, being substantially greater at the end of the week than at the beginning. Supply plants, on the other hand, receive a relatively steady volume of milk from farms each day. There is, however, a seasonal variation in such receipts since milk production on farms is substantially lower during the fall months compared to the spring months.

Raw milk, as received from farms is highly perishable and when it is not needed for bottling use it must be processed into manufactured dairy products. This is usually done at outlying supply plants or at nonpool manufacturing plants in the milkshed. The daily volume of reserve supplies ranges from a relatively limited volume on peak bottling days during the short production months to the entire volume of milk produced on those days in the flush production months when bottling plants are not operating.

It is necessary, therefore, that there be sufficient manufacturing facilities available at all times to process all the milk associated with the market. On certain days, particularly in the fall months, a very limited proportion of the capacity of manufacturing facilities is used since distributing plants utilize a high proportion of the milk produced to meet their bottling requirements. However, during the flush production months substantial volumes of milk associated with the market must be used in manufacturing outlets.

Supply plant operators have a financial stake in keeping their manufacturing facilties in operation to the fullest extent possible, primarily because of their fixed costs of operation. Thus, without shipping requirements gauged to the market's needs there is incentive for such plants to hold supplies for manufacturing rather than to ship the milk to distributing plants.

Most pool supply plants that serve distributing plants in the Chicago metropolitan segment of the market ship that quantity of milk requested by operators of distributing plants. Such shipments are made at a predetermined handling charge per hundredweight (to cover the cost of handling and accounting for milk, including at least partial reimbursement for the cost of maintaining manufacturing capacity left idle on the days the milk is shipped to the city).

In the Wisconsin segment of the market, however, shipments of milk from supply plants to distributing plants often are for the purpose only of qualifying the supply plants without any of the milk being utilized at the distributing plants. Some supply plant operators make specific prearrangements with distributing plants to receive their shipment of milk, but then to return it promptly to the supply plant or to a nonpool manufacturing plant for processing into manufactured products (Class II). The latter practice has become quite prevalent. There have been numerous instances where supply plant operators even make payments in various amounts to operators of distributing plants in order to pool their milk in this manner. These payments and the added hauling cost incurred are offset by the benefits of receiving the uniform price. Such "back-hauling" practice constitutes a predetermined commitment of pool milk to manufacturing use, contrary to the basic intent of the shipping performance requirements of the order. It was estimated that as many as 20 percent of the Wisconsin handlers may be engaging in such practice.

The back-hauling practices in the market have been accompanied to some degree by partial unloading of the tank truck at a plant for the purpose of establishing the entire load of milk as a receipt at the plant. Moreover, some handlers have gone to the extent of constructing "supply" plants for the sole purpose of so altering tank truck loads of milk. Such facilities may contain only a small vat where a small amount of milk is pumped out of the tank truck into the vat and then pumped back into the same tank truck.

Currently, there are nine pool supply plants, other than reload facilities, where tank holding capacity is less than 2,000 pounds. There are 17 additional such supply plants which have holding capacity of less than most over-the-road tank trucks. Some of these supply plants are located at or very near the location of the distributing plant which receives the supply plant milk. In all instances but one, the distributing plants now served by these supply plants had previously received milk directly from producers to meet their needs.

While no objection can be raised to the purchase of milk from a supply plant, the use of such a facility when it is more practicable to receive milk directly from the farms of nearby producers suggests reasons other than supply utility as the basis for pooling. It can now be observed

that this change in operations enables the quantity of milk to be qualified to be expanded greatly beyond the quantity of milk received and used at the distributing plant, since distributing plants qualify for pool status on the basis of the proportion of their total milk receipts disposed of on routes. Accordingly, milk associated with the supply plant but not shipped to the distributing plant does not enter into the computation of the distributing plant's performance on routes as it would if the milk were received directly from farms or diverted from the distributing plant to a nonpool plant.

It was not contemplated that handlers could exploit the pooling provisions by the methods described above, without making the milk available, in fact, to the fluid market. Accordingly, rather than fixing the performance standards for a supply plant in terms of the proportion of milk allocated to Class I use at the distributing plant, which would not be known to the supply plant operator at the time of shipment, they were set up in terms of the amount of milk shipped in order that the supply plant operator would have reasonable grounds for knowing his pool status at time of shipment.

Since some handlers in the market apparently have found that they can gain benefits from pooling, the practices described above can be expected to continue unless the order is modified to recognize for pooling qualification purposes only movements of milk for actual use at distributing plants. Further, if a handler is to be accorded the privilege of pooling his milk and receiving the uniform price, it follows that the milk at his supply plant should be available for fluid use whenever so needed. Otherwise the order would not promote its purpose of assuring an adequate supply of milk for the fluid market. In view of these considerations, it is essential that only those supply plants with milk that is, in fact, actually serving the fluid milk requirements of the market be permitted to share in the marketwide pooling of producer returns.

Modification of provisions. The above-mentioned handling practices circumvent the intent of the pooling provisions since they enable milk to be qualified for pool status when it is predesignated for manufacturing use. Accordingly, the shipping performance provisions of the order should be modified to recognize only those handling practices that reflect a normal and efficient flow of fluid milk to meet the needs of the fluid market (distributing plants).

The basic function of a supply plant is to assemble milk from farms at a location near such farms for efficient shipment to distant distributing plants. To function in this manner in the case of bulk tank handling, it is necessary that the plant be either a reload facility whereby milk is pumped from farm pick-up tank trucks into an over-the-road tank truck for transshipment, or a facility with adequate stationary storage tanks into which milk is transferred for later shipment. To reflect properly this assembly function, the order provisions should recognize as a receipt at a supply plant only that amount of milk either unloaded from a tank truck into another tank truck in the plant, or unloaded into one or more storage tanks in the plant. For meeting pooling requirements a shipment from the plant should be measured as that amount of milk loaded into a tank truck from a storage tank, or from another tank truck, in the plant.

The supply plant may function in the capacity of holding milk for later shipment. This is typically the case for a supply plant located in the same building with a nonpool manufacturing plant. In this type of facility, however, it is difficult to distinguish whether milk was physically received in a holding tank in the supply plant or simply pumped through a pipe in the plant to the nonpool manufacturing plant. If the milk is so pumped into the manufacturing plant it should appropriately be considered as received at such plant since no supply function takes place with respect to such milk at the supply plant. On the other hand, if the milk is pumped into and held in a storage tank it remains available for shipment to distributing plants and, accordingly, should be considered a receipt at the supply plant. Should the milk in the storage tank subsequently be pumped into the non-pool plant it should be considered a transfer of milk to such plant.

Such a transfer of milk is a common practice in the market and should be permitted to continue. Otherwise the milk would have to be loaded into a tank truck to move it to the nonpool plant. Moreover, the storage capacity in the supply plant can be used to perform a useful purpose with respect to the manufacturing operation once the plant operator decides to transfer the milk therein to the nonpool plant rather than to a distributing plant.

To continue to permit this practice, however, the order should require that such supply plant to qualify for pooling, maintain storage capacity to hold the largest single quantity of milk either received at or shipped from the plant. This is necessary to demonstrate that the supply function is performed with respect to the milk received at or shipped from the plant. It is also necessary to avoid the conditions described previously whereby many supply plants have qualified for pool status with only token storage capacity and thus fail to carry out a true supply function.

Only the quantity of milk that is physically unloaded at a supply plant should be considered as received at such plant. If only part of a tank load of milk is unloaded, the plant performs no supply function with respect to the milk that remains on the tank truck which moves on to another plant where such remainder of the milk is unloaded. Consequently, such remainder of milk should be considered as received wherever else it is actually unloaded.

Similarly, if a partially loaded tank truck stops at a supply plant to take on additional milk, only that quantity of milk added should be considered a shipment of milk from such plant. The milk already on the tank truck should be treated as a receipt at the plant at which it is actually unloaded. No supply function is performed by the supply plant with respect to the milk already in the truck on arrival there.

In the event that milk is picked up at several farms in a tank truck and partially unloaded at a plant, the quantity unloaded should be considered a receipt from the individual producers involved on a pro rata basis because it would be impossible to determine which farmers' milk was unloaded and which farmers' milk remained on the truck. The milk remaining on the truck should be a receipt on a pro rata basis at the plant at which actually unloaded, except in the case of the option now provided in the order whereby the operator of a distributing plant elects, with respect to split loads of milk, to be a bulk tank handler for the entire load.

To be consistent in regard to what shall constitute a receipt of producer milk at any type of pool plant, the order should specify that only the quantity of milk picked up at the farm that is physically unloaded either into processing equipment in a pool plant, into a holding tank in a pool plant or into another tank truck in a pool plant should be considered as a receipt of producer milk at the pool plant. To the extent that any milk picked up at the farm is unloaded at a nonpool plant, such quantity should be considered as diverted from the pool plant to the nonpool plant if reported as producer milk by the responsible handler. If milk on the tank truck was picked up at more than one farm, the quantity of each producer's milk to be considered as received at a pool plant or as diverted to a nonpool plant shall be prorated over the total quantity of milk picked up at all such farms.

Such greater definitiveness of what constitutes a receipt of milk at a plant, and a shipment of milk from the plant, needs to be supplemented by further specificity with respect to movements of milk between a pool supply plant and a pool distributing plant if the intent of the present supply plant performance requirements is to be carried out.

Essentially, the intent of the supply plant shipping requirements is to reflect the need and use of supply plant milk by pool distributing plants and other specified outlets in the market. As earlier stated, shipments to producer-handlers and to partially regulated distributing plants to the extent of their Class I sales in the marketing area are accorded shipping performance credit. Likewise, any shipment of condensed skim milk to a pool distributing plant also is credited as a qualifying shipment if utilized in a Class I product.

Other supply plant shipments to pool distributing plants should be tied in the future more directly to the use of such milk at distributing plants. To effect the intent of the performance provisions, it

is necessary to provide that only the net amount of milk received for the month at a pool distributing plant shall be counted toward meeting the minimum qualifying percentage of shipment. This is reasonable and necessary to avoid the conditions described previously giving performance credit for milk shipped to distributing plants which is promptly shipped back for use in manufactured dairy products, often going to nonpool manufacturing plants as well as to pool supply plants.

This will not change present performance practices with respect to the bulk of the supply plant milk on the market which is shipped for actual use at distributing plants. Adoption of net shipments in measuring shipping performance would have impact only in those instances where movements of milk back to pool supply plants and nonpool manufacturing plants are currently being made.

There are circumstances, however, such as on weekends and off-peak bottling days when distributing plants that receive some milk directly from producers must transfer some milk to supply plants or divert it to nonpool manufacturing plants. This practice should be accommodated on any day when the plant is not also receiving supply plant milk. The computation of net shipments therefore must be determined on a daily basis. Since milk could arrive at a distributing plant at the end of one day and be shipped back out at the beginning of the next day, however, no performance credit should be given on milk shipped to a distributing plant on 1 day which is shipped back the following day.

Diversions of milk from a distributing plant to a nonpool plant on the day of any receipt from a supply plant also should be subtracted from receipts from the supply plant in arriving at "net" receipts from the supply plant. Otherwise a supply plant operator could arrange to have distributing plant operator divert his producer milk to a nonpool plant, his own or another, at the same time he is shipping supply plant milk to the distributing plant. Allowance should be made, however, due to emergencies such as hazardous road conditions or a breakdown of trucking equipment, to permit up to 3 days' production of milk to be diverted from distributing plants during the month on the same days qualifying shipments of milk are received from supply plants, provided that the market administrator is notified in writing of such emergency.

Should a distributing plant receive milk from more than one supply plant, the net receipts at the distributing plant should be prorated among such plants according to the respective quantities received from them. This will afford the same treatment to shipments from supply plants that is accorded receipts of producer milk at more than one plant and also will correspond to the allocation of receipts at a pool distributing plant from more than one supply plant on which location adjustment credit applies.

Adoption of the forementioned provision in the order should discourage any circumvention of the intent of the present supply plant performance provisions of the order, without having any significant impact on normal marketing practices of handlers.

Proposals not adopted. The proposals which call for year-round shipping performance by all supply plants and elimination or restriction of the unit pooling of supply plants should not be adopted on the basis of this record. Such proposals would tend to detract from the efficient marketing of supply plant milk since they would require shipments of milk from the most distant plants, which are more than 300 miles from Chicago, when the needed supply may be available from supply plants located in the nearer in zones of the milkshed. In the interest of efficient marketing it is desirable to allow as much flexibility in milk procurement channels as possible while still achieving the basic purposes of regulation. The application of the regular supply plant shipping requirements to the low production months and the unit pooling provision were adopted to enable the use of the milk supplies closest to the population center of the marketing area before milk at distant plants which would involve extra transportation cost assessed against producer returns.

In light of the modifications adopted above to make the order more effective with respect to supply plant performance, these proposals should not be adopted, especially since their adoption would tend to reduce marketing efficiency.

2. *Diversion of producer milk.* The order should be amended to price all diverted producer milk at the location of the plant to which diverted.

Presently, producer milk may be diverted from a pool plant to a nonpool plant during any month August-December to the extent the quantity diverted does not exceed the quantity of such producer's milk received at the pool plant. During the remaining months of the year unlimited diversions are allowed. The pricing of the first 6 days' production that is diverted each month is at the location of the plant from which diverted. All milk diverted in excess of 6 days' production each month is priced at the location of the plant of actual receipt.

Proposals. There were numerous proposals put forth at the 1969 hearing session to amend these provisions. At the reopened hearing only one of the previous proposals to amend these provisions was supported again. At the reopened hearing new proposals were made by the group of operating cooperatives that would price all diverted milk at the location of the plant to which diverted.

One group of cooperative associations proposed at the 1969 hearing session, and again at the reopened hearing, to reduce the allowable diversions to nonpool plants each month to three days' production in the case of supply plants and to 8 days' production in the case of distributing plants. This proposal was opposed at both hearing sessions by certain other organizations.

An association of Chicago milk dealers testified at the reopened hearing in support of retaining the provision which prices the first 6 days' production each month of diverted milk at the location of the plant from which diverted. In its brief it was suggested that milk diverted up to one-half the days each month should be priced at the location of the plant from which diverted.

Intent of provisions. The diversion privilege is intended primarily to obtain efficiency in the disposition of that milk temporarily not needed at a pool plant. Nonpool manufacturing plants are the customary outlets for about one-half the market's reserve milk supply. Many of the pool plants on the market, whether distributing plants or supply plants, do not have manufacturing facilities. It was stated earlier that some of the present supply plants are simply receiving stations or reload points at which milk is assembled from farms for transshipment to distributing plants.

Most distributing plants do not process and package milk on Sundays. On the days that they do operate their processing and packaging schedule is generally varied in accordance with their daily sales volumes. The daily sales volumes of distributing plants are very uneven because the purchases of milk by consumers at stores tend to be greater during the latter part of the week. The home delivery volume is substantially greater on Fridays and Saturdays than on the remaining weekdays.

The operators of distributing plants typically associate a sufficient supply of milk with their operations by receipts of direct ship milk from dairy farmers and from supply plants to cover their requirements on peak bottling days during the period of seasonally low production. Consequently, there are substantial quantities of milk produced on the other days of the week during the low production season, as well as throughout the period of seasonally high production, that must be moved to plants where they can be utilized in manufactured dairy products. In many instances such plants are nonpool plants engaged primarily in processing manufacturing grade milk.

Modification of provisions. The provision which prices the first 6 days' production of diverted milk each month at the plant from which diverted should be amended to price all diverted milk at the location of the plant of actual receipt. The present provision was added to the order primarily to accommodate the weekend milk which occasionally must be diverted to nonpool plants.

Most appropriately, milk should be priced at the plant of actual physical receipt. The exception presently provided in the order was intended to accommodate a very limited diversion need and recognized that a change in the point of pricing on such a limited basis would likely be confusing to the producers involved and would result in reduced returns since haulers likely would be the

principal beneficiary of any savings because of a shorter haul to the manufacturing plant.

The current hearing demonstrates that the provision is now being used to facilitate the association of milk with city distributing plants and the handling of milk in a manner not contemplated when it was adopted, tending to impede the operation of the order.

During the 12-month period ending August 1970, diversion of not more than 6 days' production amounted to 202 million pounds, an increase of 58 percent compared to the previous 12-month period ending August 1969 which amounted to 127 million pounds. On the other hand, total diversions of 436 million pounds were up 88 percent while the quantity diverted in excess of 6 days' production of 234 million pounds increased 125 percent. Further, during the 12-month period ending August 1969, diversions of not more than 6 days' production of 127 million pounds accounted for 55 percent of the total quantity of milk diverted (232 million pounds), while the comparable percentage for the period ending August 1970 was only 46 percent, a drop of 9 percent. Thus, total diversions each month increasingly represent more than may be accounted for simply by weekend reserve milk.

The need for increased diversions indicates that handlers have generally associated with city distributing plants many additional producers whose farms are located in the distant zones. Under present provisions the milk can be received at city distributing plants on the minimum number of days each month (i.e., one-half the days during August-December with no minimum requirement during the remaining 7 months) and then be diverted to manufacturing plants located near the producers' farms on the remaining days. Six days' production each month so diverted is priced at the city plant location. In this circumstance, on the first 6 days' production that is diverted each month the producer receives the uniform price applicable at the city plant location rather than that applicable at the location of the manufacturing plant where the milk is physically received even though the extra cost of transporting the milk to the city is not incurred.

Under the circumstances described above there is no basis for continuance of the existing provision. With its deletion all diverted milk will be uniformly priced at the location of the plant of physical receipt.

The spokesman for the group of operating cooperatives testified that during the months of limited diversions (August–December) tank truckloads of producer milk are "technically" received at a pool plant by unloading such milk through a pipe in the pool plant to a nonpool plant in the same building, or partially unloading and reloading the tank truck at the pool plant before unloading it at a nonpool plant. In such cases the milk is considered to be transferred from a pool plant to a nonpool plant. The pool plant performs no useful receiving function in either case, however. The loads of milk are handled in this manner to avoid having some milk considered as overdiverted and, thus, disqualified as producer milk. Through this method of operation handlers circumvent the diversion provisions applicable during August–December which limit the quantity of a producer's milk that may be diverted to not more than the quantity that is received at a pool plant.

It is intended that all the milk picked up at producers' farms in a tank truck be unloaded at a pool plant in order to be considered a receipt of producer milk at the pool plant. Further, milk picked up at producers' farms and unloaded at a nonpool plant is intended to mean a diversion when reported as producer milk by the responsible handler.

To prevent the above-described circumvention of the August–December diversion limitations, the producer milk definition in the order should be amended to specify more precisely what quantity of milk will be considered as received at a pool plant and what quantity will be considered as diverted to a nonpool plant. The provisions set forth in the previous issue accomplish this by describing what shall be considered a receipt of producer milk at a pool plant.

The proposal described previously which would limit diversions of producer milk to manufacturing plants to only 3 days' production per month from supply plants and 8 days' production from distributing plants should not be adopted. Virtually all of the milk supply for the market is hauled from the farm to plants in bulk tank trucks. As described previously, on the days when the milk is not needed at distributing plants it is usually more economical to move the milk directly from the farm to nonpool manufacturing plants than to first assemble it at pool supply plants and distributing plants for movement to such manufacturing plants. The proposal is therefore denied.

The order should specify that milk is eligible for diversion as producer milk only if the person producing such milk had been delivering milk to a pool plant on a regular basis prior to the diversion. The concept and purpose of "diversion" carries with it the connotation that the normal place of delivery is the pool plant and the order should be amended appropriately to clarify this.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

The testimony presented by a regulated handler containing two proposals to amend the order was ruled to be beyond the scope of the hearing by the hearing examiner. One proposal would allow the operator of a pool supply plant to be the handler on producer milk delivered direct from the farm to pool distributing plants of other handlers and have such milk count toward qualifying the supply plant. The other proposal would allow two or more handlers operating supply plants to establish a unit of supply plants for qualifying purposes.

Upon a review of the testimony of the handler the ruling of the hearing examiner with respect to this testimony is approved for the reasons he stated. Secondly, adoption of these proposals would be inconsistent with the other findings contained herein since the primary thrust of this decision is to employ performance provisions that reflect more effective supply performance by supply plants, while the proposals would permit the qualification of additional plants as supply plants without any shipment ever being made from such plants to pool distributing plants.

General Findings

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof

would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1030.10 paragraph (c) is revised to read as follows:

§ 1030.10 Plant.

* * * * *

(c) "Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant. Such supply plant shall be equipped with storage capacity sufficient to hold the largest quantity of fluid milk product either received in the plant or shipped from the plant as a single load during the month, except no storage capacity need be maintained in a plant with respect to milk moved from the farm in a tank truck which is transferred and commingled in another tank truck with other milk for transshipment.

2. In § 1030.11 paragraph (b) the text through subparagraph (1)(i) plus subparagraph (5) is revised as follows:

§ 1030.11 Pool plant.

* * * * *

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped during the months in accordance with subparagraphs (1) and (2) of this paragraph is not less than the percentages specified in subparagraph (4) of this paragraph subject to subparagraphs (5), (6), (7), and (8) of this paragraph of the volume of Grade A milk received from dairy farmers and cooperative associations pursuant to § 1030.13(e), including producer milk diverted under § 1030.16. Such receipts shall be reduced by the disposition of packaged fluid milk products described in subparagraph (3) of this paragraph.

(1) Shipped or transshipped as fluid milk products to and physically unloaded into:

(i) Pool plants pursuant to paragraph (a) of this section to the extent of the quantity determined pursuant to subparagraph (5) of this paragraph;

* * * * *

(5) For the purpose of determining the percentage specified in subparagraph (4) of this paragraph the quantity of fluid milk products moved pursuant to subparagraph (1)(i) of this paragraph shall be a net quantity assignable at pool distributing plants computed by subtracting from the quantity of fluid milk products received from a supply plant, but not to exceed such quantity, the amounts described in subdivisions (i) and (ii) of this subparagraph. If fluid milk products are received from more than one supply plant such net quantity assignable shall be prorated among such supply plants in accordance with the total receipts from such plants.

(i) The quantity of bulk milk and skim milk transferred from the distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II milk on the day of and the day following the date of the receipt from the supply plant.

(ii) If milk is diverted from the distributing plant on the date of the receipt from the supply plant, the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of an emergency situation such as a breakdown of trucking equipment or hazardous road conditions shall not be subtracted if such emergency is reported to the market administrator.

* * * * *

3. Section 1030.15 is revised as follows:

§ 1030.15 Producer.

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or diverted pursuant to § 1030.16 except:

(a) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.9;

(b) A producer handler as defined in any order (including this part) issued pursuant to the Act; and

(c) A dairy farmer who is defined as a producer under the terms of another order issued pursuant to the Act whose milk is received at a pool plant as a diversion from an other order plant and is assigned pursuant to § 1030.46(a)(4)(ii) and the corresponding step of § 1030.46 (b).

4. Section 1030.16 is revised as follows:

§ 1030.16 Producer milk.

"Producer milk" means milk produced by producers which is:

(a) Received at a pool plant directly from producers, by being physically unloaded into processing facilities or a storage tank (including another tank truck in the case of a reload facility), and the shrinkage of skim milk and butterfat in milk received from producers' farms which was not unloaded in a pool plant. Such direct receipts from producers shall include the portion of a tank truck load of milk unloaded in a pool plant in the case where a portion of such load was first unloaded at another pool plant or diverted to a nonpool plant. The quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received by a handler pursuant to § 1030.13(h).

(c) Received at a pool plant from a cooperative association handler pursuant to § 1030.13(e).

(d) Received by a cooperative association as a handler pursuant to § 1030.13(e) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant under paragraph (c) of this section. In applying §§ 1030.53 and 1030.82 such skim milk and butterfat shall be deemed to be received at the location of the pool plant to which delivery is normally made.

(e) Diverted from a pool plant to a nonpool plant subject to the conditions specified in this paragraph. Milk shall be eligible for diversion as producer milk only if the person producing such milk had been delivering milk as producer milk to a pool plant on a regular basis prior to the diversion. Milk picked up at a producer's farm in a tank truck, to the extent it is unloaded at a nonpool plant, shall be subject to the conditions specified in this paragraph and if the tank truck contains milk from more than one producer the quantity subject to the conditions specified in this paragraph shall be prorated over the total quantity of milk picked up at each producer's farm. Milk so diverted shall be considered as received at the pool plant from which diverted in calculating the percentages specified in § 1030.11. The location price differentials pursuant to § 1030.82 shall be based on the zone location of the nonpool plant(s) where such milk is physically received. Diverted milk shall be limited as follows:

(1) Milk of a producer diverted for the account of the operator of the plant from which such milk is diverted in any of the months August through December which does not exceed the quantity of such producer's milk received in the pool plant;

(2) Milk of a producer diverted by a cooperative as a handler pursuant to § 1030.13(d) may not in any of the months August through December exceed the quantity of such producer's milk received in the pool plant from which it was diverted. To the extent that milk diverted by a cooperative as a handler during any month would result in the plant failing to qualify as a pool plant under § 1030.11 such diverted milk shall not be producer milk;

(3) Milk diverted to an other order plant shall be producer milk pursuant to this section only if it is not producer milk under such other order; and

(4) Milk of a producer diverted by a handler who fails to report the information required pursuant to § 1030.31(b)(4) shall not be considered producer milk pursuant to this paragraph.

5. In § 1030.30 subparagraph (3) of paragraph (a) is revised to read as follows:

§ 1030.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(3) Fluid milk products received from pool plants of other handlers (or other pool plants, as applicable), including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.11(b)(5), except during the months of January through July no such separate statement need be made if receipts from supply plants are from only plants that were pool plants dur-

ing the prior months of August through December;

* * * * *

Signed at Washington, D.C., on April 27, 1971.

JOHN C. BLUM,
Deputy Administrator.

[FR Doc.71-6070 Filed 4-29-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-EA-54]

AREA LOW ROUTES

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate area navigation (RNAV) low routes to be used between airports in the New York, N.Y., and Washington, D.C. and the New York and Boston, Mass., metropolitan areas.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 60 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER on July 1, 1970 (35 F.R. 10653), which established regulatory bases for the designation of specific area high and area low routes. The area low routes proposed herein would provide properly equipped aircraft with additional means of navigation between New York and Washington and between New York and Boston.

If this action is taken, Part 71 of the Federal Aviation Regulations would be amended by designating the following area low routes:

1. V700R Newark, N.J./New York, N.Y. (La Guardia), to Boston, Mass.

Waypoint name, VOR/DME description, and geographical coordinates

Goat, N.Y., CMK 193.7M/20.2 NM, latitude 40°56'35" N., longitude 73°35'22" W.; Moosup, R.I., ORW 052.8M/18.8 NM, latitude 41°43'11" N., longitude 71°44'31" W.; Norfolk, Mass., BOS 236.0M/20.2 NM, latitude 42°06'11" N., longitude 71°17'26" W.

2. V701R Boston, Mass., to New York, N.Y. (La Guardia).

Upton, Mass., PUT 060.2M/16.0 NM, latitude 42°08'25" N., longitude 71°35'12" W.; Wilton, Conn., MAD 282.5M/32.5 NM, latitude 41°18'07" N., longitude 73°24'40" W.

3. V702R Washington, D.C., to New York, N.Y. (La Guardia).

Sparrows, Md., DCA 065.8M/28.7 NM, latitude 39°06'43" N., longitude 76°30'56" W.; Chester, Md., ENO 271.7M/23.0 NM, latitude 39°11'02" N., longitude 76°00'20" W.; Branch, N.J., RBV 005.4M/05.7 NM, latitude 40°17'49" N., longitude 74°30'19" W.

4. V703R Boston, Mass., to Newark, N.J.

Upton, Mass., PUT 060.2M/16.0 NM, latitude 42°08'25" N., longitude 71°35'12" W.; Pine Bush, N.Y., PWL 267.2M/28.3 NM, latitude 41°38'31" N., longitude 74°12'26" W.; Monroe, N.Y., HUO 151.8M/11.8 NM, latitude 41°15'24" N., longitude 74°25'41" W.

5. V704R Washington, D.C., to Newark, N.J.

Sparrows, Md., DCA 065.8M/28.7 NM, latitude 39°06'43" N., longitude 76°30'56" W.; Love, Md., ENO 269.5M/35.8 NM, latitude 39°08'08" N., longitude 76°16'25" W.; Adams, N.J., RBV 343.8M/17.2 NM, latitude 40°27'36" N., longitude 74°39'36" W.

6. V705R Newark, N.J./New York, N.Y. (La Guardia), to Washington, D.C.

Lambertville, N.J., RBV 324.7M/24.4 NM, latitude 40°29'15" N., longitude 74°52'25" W.; Columbia, Md., BAL 295.0M/07.2 NM, latitude 39°12'26" N., longitude 76°48'34" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 21, 1971.

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

[FR Doc.71-5985 Filed 4-29-71;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 71-WA-14]

AREA HIGH ROUTES

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high routes in the United States.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER (35 F.R. 10653), which established regulatory bases for the designation of specific area high and low routes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received within 60 days after publication of this notice will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independent Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating area high routes as follows:

J-968R GREAT FALLS, MONT., TO DENVER, COLO.

Lewiston, Mont., 251.8° M/74.1 NM, latitude 47°02'01" N., longitude 111°24'41" W.; Billings, Mont., 284° M/25 NM, latitude 46°01'19" N., longitude 109°08'11" W.; Crazy Woman, Wyo., 227.7° M/44.1 NM, latitude 43°39'32" N., longitude 107°20'06" W.; Cheyenne, Wyo., 174.1° M/63.5 NM, latitude 40°09'38" N., longitude 104°56'34" W.

J-969R DENVER, COLO., TO PHOENIX, ARIZ.

Denver, Colo., 219° M/42 NM, latitude 39°25'38" N., longitude 105°27'51" W.; Gunnison, Colo., 114.6° M/20.5 NM, latitude 38°14'18" N., longitude 106°41'59" W.; Farmington, N. Mex., 293.6° M/2.9 NM, latitude 36°46'41" N., longitude 108°08'48" W.; Winslow, Ariz., 116° M/41 NM, latitude 34°37'12" N., longitude 110°09'36" W.; Gila Bend, Ariz., 040° M/48.7 NM, latitude 33°-25'53" N., longitude 111°53'17" W.

J-970R DENVER, COLO., TO DALLAS, TEX.

Garden City, Kans., 296.8° M/94.5 NM, latitude 38°11'50" N., longitude 102°41'14" W.; Oklahoma City, Okla., 148.8° M/79.6 NM, latitude 34°12'41" N., longitude 97°10'05" W.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 21, 1971.

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

[FR Doc.71-5986 Filed 4-29-71;8:45 am]

Notices

DEPARTMENT OF STATE

[Public Notice 340]

CERTAIN NONIMMIGRANT VISAS

Validity

Public Notice 312 of August 27, 1969, authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. Central African Republic is being added to the list of countries contained in that notice.

This notice amends Public Notice 312 of August 27, 1969 (34 F.R. 13705).

Dated: April 20, 1971.

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

[FR Doc.71-6041 Filed 4-29-71;8:47 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-115; Customs Delegation Order No. 41]

ACTING REGIONAL COMMISSIONER OF CUSTOMS, REGION II, NEW YORK CITY, N.Y.

Designation

APRIL 28, 1971.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), I hereby designate Fred R. Boyett, Regional Commissioner of Customs, Region IX, Chicago, Ill., to act as Regional Commissioner of Customs for Region II, New York City, N.Y.

This order shall become effective May 1, 1971.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-6150 Filed 4-29-71;8:51 am]

Internal Revenue Service

JUNIOR LEE ASHWOOD

Notice of Granting of Relief

Notice is hereby given that Junior Lee Ashwood, 8856 Central, Detroit, MI 48204, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on November 9, 1956, in the Union County Court, N.J., and on September 30, 1960, in the Recorder's Court of the city of Detroit, Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Junior Lee Ashwood because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Junior Lee Ashwood to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Junior Lee Ashwood's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Junior Lee Ashwood be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 21st day of April 1971.

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

[FR Doc.71-6072 Filed 4-29-71;8:50 am]

ZIMERIAH BRAY

Notice of Granting of Relief

Notice is hereby given that Mr. Zimeriah Bray, 4137 Kendall, Detroit, MI 48238, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 28, 1948, in the U.S. District Court for the Eastern District of Michigan, Southern Division, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Zimeriah Bray because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Zimeriah Bray to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Zimeriah Bray's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Zimeriah Bray be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the aquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April, 1971.

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

[FR Doc.71-6073 Filed 4-29-71;8:50 am]

JAMES FRANKLIN BROWN

Notice of Granting of Relief

Notice is hereby given that James Franklin Brown, 3323 Ingersoll, Des Moines, IA 50314, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on August 30, 1963, in the District

Court of the State of Iowa in and for Hamilton County, in Webster iCty, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for James F. Brown because of such conviction to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for James F. Brown to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered James F. Brown's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That James F. Brown be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6074 Filed 4-29-71;8:50 am]

WILLIAM G. BURGOYNE

Notice of Granting of Relief

Notice is hereby given that William G. Burgoyne, 87 Greenridge Road, Torrington, CT, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on September 14, 1965, by the Litchfield Superior Court, in and for the county of Litchfield, Conn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for William G. Burgoyne because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for William G. Burgoyne to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered William G. Burgoyne's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That William G. Burgoyne be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6075 Filed 4-29-71;8:50 am]

RUDOLPH COLEMAN

Notice of Granting of Relief

Notice is hereby given that Rudolph Coleman, 4013 Saint Clair Street, Detroit, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 31, 1955, in the Recorder's Court of the city of Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Rudolph Coleman because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Rudolph Coleman to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Rudolph Coleman's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Rudolph Coleman be, and he hereby is, granted relief from any and all disabilities imposed by Federal law with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6076 Filed 4-29-71;8:50 am]

JOY FORTNEY

Notice of Granting of Relief

Notice is hereby given that Joy Fortney, 1104 East Fourth Street, Bellwood, PA 16617, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 10, 1969, in the U.S. District Court for the Western District of Pennsylvania, Pittsburgh, Pa., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Joy Fortney because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Joy Fortney to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Joy Fortney's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44,

title 18, United States Code, or of the National Firearms Act; and

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144; *It is ordered*, That Joy Fortney be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 15th day of April 1971.

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

[FR Doc.71-6077 Filed 4-29-71;8:50 am]

CHARLIE E. HENDRIX

Notice of Granting of Relief

Notice is hereby given that Charlie E. Hendrix, 126 Colorado Street, Highland Park, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on or about August 11, 1939, in the Nashville, Tenn., Circuit Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Charlie E. Hendrix because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Charlie E. Hendrix to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Charlie E. Hendrix's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Charlie E. Hendrix be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6078 Filed 4-29-71;8:50 am]

DENNIS ALFRED KEESEE

Notice of Granting of Relief

Notice is hereby given that Dennis Alfred Keesee, 2601 West Park Place, Oklahoma City, OK 73107, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 20, 1922, in the District Court, Kay County, Newkirk, Okla., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Dennis A. Keesee because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Dennis A. Keesee to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Dennis A. Keesee's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Dennis A. Keesee be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6079 Filed 4-29-71;8:50 am]

JERRY LEE MEYERS

Notice of Granting of Relief

Notice is hereby given that Jerry Lee Meyers, 501 South Main, Louisiana, MO 63353, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 16, 1967, in the Circuit Court of Pike County, MO, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jerry L. Meyers because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Jerry L. Meyers to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Jerry L. Meyers' application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Jerry L. Meyers be, and he hereby is granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 16th day of April 1971.

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

[FR Doc.71-6080 Filed 4-29-71;8:50 am]

THOMAS ROY SCHUMACHER

Notice of Granting of Relief

Notice is hereby given that Thomas Roy Schumacher, 1345 Cedar Street,

Oshkosh, WI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on November 27, 1967, in the Winnebago County Court, Oshkosh, Wis., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Thomas Roy Schumacher because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Thomas Roy Schumacher to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Thomas Roy Schumacher's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by CFR 178.144: *It is ordered*, That Thomas Roy Schumacher be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 21st day of April 1971.

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

[FR Doc.71-6081 Filed 4-29-71;8:50 am]

STEPHEN LYNN SMITH

Notice of Granting of Relief

Notice is hereby given that Stephen Lynn Smith, 1025 South 15th Street, Marion, IA 52302, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 18, 1966, by the Federal District Court, Southern Judicial District, Des Moines, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Stephen Lynn Smith because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Stephen Lynn Smith to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Stephen Lynn Smith's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code, and delegated to me by 26 CFR 178.144: *It is ordered*, That Stephen Lynn Smith be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 21st day of April 1971.

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[FR Doc.71-6082 Filed 4-29-71;8:51 am]

Office of the Secretary

CAST OR ROLLED GLASS FROM JAPAN

Determination of Sales at Not Less Than Fair Value

APRIL 28, 1971.

On January 30, 1971, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" that cast or rolled glass from Japan is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the "Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

Presentations were made by the attorneys for both the complainant and the Japanese manufacturers. Upon review of these presentations and for the reasons stated in the tentative determination, I hereby determine that cast or rolled glass from Japan is not being, nor likely to be, sold at less than fair value (section 201 (a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c) and § 153.33(c), Customs regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-6148 Filed 4-29-71;8:51 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

INDIAN TRIBES PERFORMING LAW AND ORDER FUNCTIONS

Notice of Determination

APRIL 26, 1971.

The listing of Indian tribes performing law and order functions was published on page 5341 of the March 18, 1969, issue of the FEDERAL REGISTER (34 F.R. 5341). It was subsequently amended on page 10917 of the July 7, 1970, issue of the FEDERAL REGISTER (35 F.R. 10917), and on page 3531 of the February 26, 1971, issue of the FEDERAL REGISTER (36 F.R. 3531). The listing is further amended as follows:

Add the phrase "Yankton Sioux Tribe" under the heading "South Dakota" and immediately preceding the phrase "Utah."

The notice shall be effective upon publication in the FEDERAL REGISTER (4-30-71).

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.71-6027 Filed 4-29-71;8:46 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 412]

BRUNO KAELBERER AND SYSTEM TECHNIK G.m.b.H.

Notice of Termination of Related Party Status

In the matter of Bruno Kaelberer and System Technik G.m.b.H., 63 Untermainkai, Frankfurt/Main, Federal Republic of Germany.

On April 6, 1971, notice was given by publication in the FEDERAL REGISTER (36 F.R. 6529) that a determination had been made by the Director, Office of Export Control, that Bruno Kaelberer and System Technik G.m.b.H., both of Frankfurt/Main, Federal Republic of Germany, were related parties to Comp-Data G.m.b.H. and Johann Nitschinger, both

of Vienna, Austria, against whom an order denying export privileges had been entered on October 13, 1970 (35 F.R. 16551).

The said Kaelberer and System Technik have petitioned for termination of their related party status. They have presented evidence on which it has been found that there is now no connection between them and said Comp-Data G.m.b.H. and/or Johann Nitschinger, and that the basis on which the related party determination was made no longer exists.

Accordingly, notice is hereby given that the status of the above named Bruno Kaelberer and System Technik G.m.b.H. as related parties to said Comp-Data G.m.b.H. and Johann Nitschinger is hereby terminated.

Dated: April 27, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.71-6068 Filed 4-29-71;8:49 am]

Office of the Secretary

UNIVERSITY OF PENNSYLVANIA, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of application for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00423-33-46500. Applicant: University of Pennsylvania, Department of Neurology, 3400 Spruce Street, Philadelphia, PA 19104. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study biological materials, mainly mammalian tissues derived from humans which exhibit both normal and pathologic structure. The experiments concern the development of muscle in animals and the study of muscular dystrophy, gloogen storage disease, and mitochondrial disorders in humans. Application received by Commissioner of Customs: February 26, 1971.

Docket No. 71-00424-33-46040. Applicant: University of Connecticut Health Center, Route 4, Farmington, Conn. 06032. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research and diagnostic work involving human and animal tissues. In addition, isolated subcellular components, including purified proteins, nucleic acids and lipids will be studied. The projects concern the pathogenesis of human and animal disease processes, including inflammatory, degenerative and neoplastic conditions. A major portion of the research program will involve immunobiologic and immunopathologic investigation. Application received by Commissioner of Customs: February 26, 1971.

Docket No. 71-00425-33-46040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used to examine the ultrastructure of a variety of human and animal tissues. Kidney tissue obtained at autopsy and by biopsy of patients with acute renal failure will be studied. The degree of cellular structural alteration will be correlated with the severity and duration of the clinical disease. A course entitled "Electron Microscopic Techniques as Applied to Human Pathology" will use the instrument for the training of residents and research trainees in the techniques and methods of electron microscopy as applied to the study of human disease. Application received by Commissioner of Customs: March 2, 1971.

Docket No. 71-00431-00-54800. Applicant: University of Michigan, Department of Ophthalmology, 5044 Kresge II, Ann Arbor, MI 48104. Article: Optical bench components. Manufacturer: Precision Tool and Instrument Co., Ltd., United Kingdom. Intended use of article: The articles will be used to replace parts of existing scientific instruments used in research on the physiology of the eye. Application received by Commissioner of Customs: March 8, 1971.

Docket No. 71-00432-33-46500. Applicant: Veterans' Administration Hospital, 112 Holland Avenue, Albany, NY 12208. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce ultrathin sections for electron microscopic examination. The primary use of the instrument will be the study of responses to axon section of neurons which project to the periphery (central chromatolysis) and which give rise to processes beginning and terminating within the central nervous system (retrograde neuronal atrophy or degeneration). Application received by Commissioner of Customs: March 8, 1971.

Docket No. 71-00433-33-46070. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, MA 02115. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for studies of the male germ cell and reproductive tract and of the female gamete. Projects concern the 3-dimensional configuration of sperm and sperm-egg interactions as revealed by scanning electron microscopy; stereoscan observations on cyclic variations in the oviductal and endometrial surface and on egg-endometrial relationships at implantation; and sterology of the luminal surface of the seminiferous epithelium, the rete testis, and the free surface of the epididymal epithelium. Application received by Commissioner of Customs: March 9, 1971.

Docket No. 71-00434-33-46040. Applicant: Tufts University School of Medicine, 136 Harrison Avenue, Boston, MA 02111. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used for research involving the application of the techniques of electron cytochemistry to the study of hydrolytic enzymes; the relationship of alkaline phosphatase to fat absorption in the intestine of the rat; and the application of azo dye methods for electron microscopic visualization of acid hydrolases. Application received by Commissioner of Customs: March 9, 1971.

Docket No. 71-00435-33-46070. Applicant: University of Colorado, Department of Molecular, Cellular, and Developmental Biology, Boulder, CO 80302. Article: Scanning electron microscope, Model S-4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article will be used to examine and record (in micrographs) the surface contours of biological materials. More specifically it will be used to collect information on surface contours of a wide variety of animal and plant tissues for future teaching material in courses on cell biology and the plant cell. The surfaces of isolated normal and cancerous cells will be studied, as well as the development and differentiation of cell surfaces in order to determine origin of surface membranes and how small units of membrane are integrated into cell surface. Application received by Commissioner of Customs: March 9, 1971.

Docket No. 71-00436-02-37100. Applicant: State University of New York at Albany, 1400 Washington Avenue, Albany, NY 12203. Article: Model 07499.02 dangoumau sample homogenizer. Capacity: two 65-milliliter jars or one 150-milliliter jar. Ball-mill agitation by a 220-volt, 50-cycle, 1/10-horsepower asynchronous motor. Has water jacket for maintaining constant temperature of the sample during pulverization. Manufacturer: Prolabo, Societe, Paris, France. Intended use of article: The article will be used for low temperature pulverization of plant material, preliminary to

extraction of chemical constituents, principally seeds preceding protein extraction. Application received by Commissioner of Customs: March 9, 1971.

Docket No. 71–00437–33–09500. Applicant: The Salk Institute for Biological Studies, Post Office Box 1809, San Diego, CA 92112. Article: Kerby Continuous Flow Centrifuge. Manufacturer: Varian Techtron Pty., Australia. Intended use of article: The article will be used to study the body's immune system as particularly related to the control of cancer. Attempts will be made to manipulate the body's responses to antigenic stimulation, by draining and processing the body's lymph. The experiments to be conducted will study the possibilities of augmenting the immune response against cancer and against other selected antigens. Application received by Commissioner of Customs: March 9, 1971.

Docket No. 71–00438–01–77040. Applicant: Texas Tech University, Lubbock, TX 79409. Article: Mass Spectrometer, Model 311. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used as a research tool for the determination of structure, stereochemistry, and fragmentation patterns in natural and synthetic compounds of steriod, terpenoid, and alkaloid type in conjunction with gas chromatography and a data analysis system. Application received by Commissioner of Customs: March 11, 1971.

Docket No. 71–00439–33–46040. Applicant. Temple University Medical School, 3400 North Broad Street, Philadelphia, PA 19140. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for a study of the cross-linkages in the filaments of the pigment synthesizing organelle of the melanocyte; for a project involving the localization of isoproterenol to specific organelles in the cells of the salivary gland; and for an investigation to identify element copper in the enzyme tyrosinase. Application received by Commissioner of Customs: March 11, 1971.

Docket No. 71–00441–65–46040. Applicant: University of Pittsburgh, Oakland Campus, Pittsburgh, PA 15213. Article: Electron microscope, Model JEM–120 (JEM–100U). Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in studies of precipitation and phase transformations in metals and alloys; precipitation and crystallization in crystalline ceramics and glasses; crystallization and morphology of polymers; deformation substructure studies of single and two-phase materials; annealing phenomena in metals and ceramics; fractography of metallic, ceramic and polymeric materials; and magnetic domain structures. Application received by Commissioner of Customs: March 12, 1971.

Docket No. 71–00442–33–46070. Applicant: Duke University, Erwin Road, Durham, NC 27706. Article: Scanning electron microscope, Model JSM–S1. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research concerning paleoecology of African lake sediments; evolutionary diversification of plants; and calcification mechanisms in marine organisms. Educational employment of the instrument will range from undergraduates, graduates, and to postdoctoral fellows in courses entitled Ecology-Limnology, Biosystematics and Cell Physiology. Application received by Commissioner of Customs: March 15, 1971.

Docket No. 71–00443–98–66700. Applicant: California State College, Hayward, 25800 Hillary Street, Hayward, Calif. 94542. Article: Model SPI 160, Triple Projector Unit for Spark Chamber and Bubble Chamber Photographs consisting of 3 projection units coupled together and driven by one single variable speed collector motor, 3 transformers, 1 rectifier, 1 switch panel, 2 teleswitches, 1 rheostat, 18 rollers, 9 masks, 6 knobs, 6 lenses, 1 set tools, 3 Symmar 135 mm. projection lenses. Manufacturer: Prevost Apparecchi Cine, Italy. Intended use of article: The articles are projectors that will be used for the study of particle interactions using film exposed in bubble chamber experiments for particle physics investigations. Educational employment will be in Junior Laboratory, Physics 3181, 3182, 3183 and the Senior Laboratory, Physics 4181, 4182, 4183 and for independent projects for graduate students. Application received by Commissioner of Customs: March 15, 1971.

Docket No. 71–00444–33–46040. Applicant: Indiana State University, Evansville Campus, Highway 62, Evansville, Ind. 47712. Article: Electron microscope, Model HU–125E and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research projects concerning the ultrastructure of mastigont structures of *Trichomonas suis* and analysis of subunit structure of the fibrillar envelope of the costa of *Trichomonas suis*. The courses in which the electron microscope will be used are General Biology I and II, Genetics, General Physiology, Histology and Microtechnique, and Special Problems. Application received by Commissioner of Customs: March 15, 1971.

Docket No. 71–00445–79–50600. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: 4 Fission Chambers, neutron sensitive; overall diameter—1.5 inches; overall diameter—22 feet; neutron sensitivity—0.1 counts per second of unit flux; plus associated signal cables that can operate reliably in the range of 800 ° F. to 1400° F. Manufacturer: Twentieth Century Electronics, Ltd., United Kingdom. Intended use of article: The fission counters are being procured for evaluation for application to monitoring neutron flux in uncooled instrument thimbles of the Liquid Metal Fast Breeder Reactors (LMFBR). Application received by Commissioner of Customs: March 15, 1971.

Docket No. 71–00446–33–46040. Applicant: George Washington University, 2150 Pennsylvania Avenue NW., Washington, DC 20037. Article: Electron microscope, Model EM 801 and accessories. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for research studies on the junctional complexes between endothelial cells of intestinal mucosal lymphatics, capillaries, and the junctional complexes between intestinal absorptive cells; the elucidation of the fine structure of erythropoietic tissues in the mature erythrocyte; and for studies of normal and pathologic erythropoiesis in man, which will be performed upon specimens obtained from routine bone marrow aspiration and biopsy. Application received by Commissioner of Customs: March 16, 1971.

Docket No. 71–00447–89–70000. Applicant: University of Alaska, Geophysical Institute, College, Alaska 99701. Article: Lightweight portable radiometer, Model PD4–QK. Manufacturer: Physico-Meteorological Observatory, Switzerland. Intended use of article: The radiation instrument will be used for the McCall Glacier project to measure the albedo of different surfaces, and to measure the albedo changes of the snow cover during the season in different altitudes. Application received by Commissioner of Customs: March 16, 1971.

Docket No.: 71–00448–33–46040. Applicant: Sloan-Kettering Institute for Cancer Research, 425, East 68th Street, New York, NY 10021. Article: Electron Microscope. Model EM–9S. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for research on normal and malignant lymphoid cells. Analysis of the precise topographical distribution of cell surface antigens over the entire cell surface will be made, as well as comparative analysis of the representation of various antigens on the surfaces of normal and malignant lymphoid cells. Application received by Commissioner of Customs: March 16, 1971.

Docket No.: 71–00449–33–46500. Applicant: Medical University of South Carolina, Department of Pathology, 80 Barre Street, Charleston, SC 29401. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden, Intended use of article: The article will be used in the study of normal cell function in human and animal tissues and in investigations into the cause of certain human diseases. Specifically, the sectioned specimens of human skin will be investigated for ultrastructural changes in patients with elevated blood pressure; for examining specimens of normal and pathological human placenta; and for investigations of white blood cells in normal and certain disease states. Application received by Commissioner of Customs: March 18, 1971.

Docket No.: 71–00450–33–01110. Applicant: University of Washington, Seattle, Wash. 98105. Article: Amino Acid Analyzer, Model JLC–5AH. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research on antitumor efficacy of selected amino acid

degrading enzymes. Amino acids in the sera and tissues of experimental animals will be measured following treatment with enzymes. The serum samples and tissues will be collected and prepared in an appropriate manner for analysis of amino acid content. Application received by Commissioner of Customs: March 18, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-6022 Filed 4-29-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Pipeline Safety

TRANSCONTINENTAL GAS PIPE LINE CORP.

Grant of Waiver

By petition dated February 4, 1971, the Transcontinental Gas Pipe Line Corp. (hereinafter referred to as Transco), requested a waiver to ship by rail from the mill at Steeltown, Pa., to a destination in Texas, approximately 100,000 feet of 30" O.D. x 0.365" wall pipe. The pipe is to be double submerged arc girth welded, prior to shipment. This shipment would not be in compliance with § 192.65, Title 49, Code of Federal Regulations, which provides that where a pipeline is to be operated at a hoop stress of 20 percent or more of SMYS, pipe having an outer diameter-to-wall thickness ratio of 70:1 or more, transportation by rail must be performed in accordance with API RP5L1.

The incorporated reference prohibits overhang loads in excess of 5 feet or one-half of the distance between intermediate bearing strips, whichever is greater. Transco stated that overhangs in excess of this limitation are necessary since railroad cars of sufficient length to contain 80-foot lengths of pipe are not readily available. Transco proposes loading the pipe on 52-foot cars with a double overhang of approximately 15 feet on idler cars. The safety justification for the requested waiver, as stated by the petitioner, was set forth in a notice of hearing published in the FEDERAL REGISTER on February 17, 1971, 36 F.R. 3079.

As announced in the referenced notice, a public hearing on petitioner's request was held at the Office of Pipeline Safety on March 10, 1971. The only appearances at the hearing were those of petitioner and others appearing to support petitioner's position.

Based on information furnished by the petitioner it appears that—

1. A loading procedure has been developed which appears to limit the stresses due to rail transportation so as not to exceed those permitted under the procedures set forth in the API recommended practice referenced in § 192.65.

2. Large quantities of pipe loaded according to the procedure and in a manner similar to that proposed by petitioner have been transported for substantial distances to destinations in the United States and Canada. The shipment of pipe by this method has not resulted in any unsafe pipe conditions.

In consideration of the foregoing, Transcontinental Gas Pipe Line Corp. is granted a waiver from § 192.65 of the Minimum Federal Safety Standards for the transportation of gas and pipeline facilities to the extent necessary to permit the use of approximately 100,000 feet of 30" O.D. x 0.365" wall pipe shipped in approximately 80-foot lengths by rail from Steeltown, Pa., to Texas with an overhang from the end bearing strips in excess of that permitted under API Recommended Practice RP5L1, subject to the following conditions:

1. Each rail carload of pipe must be loaded in accordance with the loading diagram submitted as exhibit 1 during the hearing on this waiver conducted on March 10, 1971, and must be inspected after loading to assure it has been accomplished in this manner.

2. During unloading, each length of pipe must be inspected for visible damage. A detailed report of any damage discovered, other than damage to pipe bevels, must be made promptly to the Office of Pipeline Safety.

3. Each length of pipe used must be strength tested after installation to at least 90 percent of specified minimum yield strength and each failure that may have been related to transportation damage must be reported in a detailed supplementary statement, in addition to furnishing Form DOT-F-7100.2.

4. Transco shall notify the Office of Pipeline Safety upon completion of the testing of the pipeline for which the shipment is intended and shall furnish that office with any additional information which it secures related to the safety of this manner of shipment.

Issued in Washington, D.C., on April 26, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-6035 Filed 4-29-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-366]

GEORGIA POWER CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

Georgia Power Co., 270 Peachtree Street NW., Atlanta, GA 30303, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated July 24, 1970, for authorization to construct and operate a boiling water nuclear power reactor at the Edwin I. Hatch site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga.

The proposed reactor, designated by the applicant, as the Edwin I. Hatch Nuclear Plant Unit 2 is designed for initial operation at approximately 2,436 megawatts thermal with a gross electrical output of approximately 817 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after April 30, 1971.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the office of the Appling County Commissioners, County Courthouse, Baxley, Ga.

Dated at Bethesda, Md., this 17th day of April 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-5668 Filed 4-29-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 71-4-162]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Issued under delegated authority April 23, 1971.

By Order 71-4-28, dated April 5, 1971, action was deferred, with a view toward eventual approval, on resolutions incorporated in agreements adopted by the traffic conferences of the International Air Transport Association (IATA). The agreements would amend existing resolutions governing children's fares, individual and group inclusive tour fares applying from points in Australasia to points in Europe/Africa/Middle East, and conditions of service involving in-flight entertainment within Asia/Australasia.

In deferring action on the agreements, 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 71-4-28 will herein be made final.

Accordingly, it is ordered, That:

Agreements CAB 22230, CAB 22247, and CAB 22317 be, and they hereby are, approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-6062 Filed 4-29-71;8:49 am]

[Docket 23267; Order 71-4-167]

ALASKA AIRLINES, INC., ET AL.

Order Deferring Action and Establishing Procedural Framework

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of April 1971.

On April 6, 1971, there were filed pursuant to section 412 of the Federal Aviation Act of 1958, as amended (the Act), two agreements between Alaska Airlines, Inc., American Airlines, Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.[1] The first agreement (CAB 22367) is entitled "Agreement to Establish the Airline Industrial Relations Conference" (AIRCO); and the second (CAB 22368), constitutes the Articles of Association of AIRCO.[1a]

According to the Articles of Association the particular objects and purposes of AIRCO are as follows:

(a) Planning and recommending a program to all member carriers for promoting a more consistent position on issues in future or pending labor negotiations involving such carriers;

(b) Collecting and disseminating useful and practical statistics regarding wages, earnings, fringe benefits, and other labor and personnel data, and providing a forum for the discussion of industrial relations matters for all members, and at fees fixed by the Advisory Board for eligible carriers which do not become members;

(c) Determining the position of the member carriers on legislation related to or affecting labor relations and implementing such determinations in cooperation with the Air Transport Association to promote effective handling and to avoid duplication by AIRCO of the Air Transport Association apparatus, resources, and expertise;

(d) Furnishing general labor law research;

(e) Representing member carriers in appearances before courts, administrative agencies, and boards as authorized by the Advisory Board;

(f) Upon approval to do so by a two-thirds (⅔) majority vote of the Board of Directors, acting for one or more member carriers as representative in labor relations matters provided such member carrier or carriers shall have empowered AIRCO to act on its or their behalf in the specific matter by written power of attorney in a form prescribed by the Board, which power of attorney shall be revocable at any duly constituted meeting of the Board, except as provided in Article II(b) of these articles;

(g) Advising and consulting with appropriate officials of each of the member carriers in order to promote uniformly good employee relations and to minimize grievances.

The carriers eligible to participate in the agreements are designated as (1) Trunk Carriers and Pan American, and (2) Regional, Local, Territorial, and All-Cargo Carriers. The carriers listed under the respective headings, except for Trans Caribbean Airways, Inc., all hold certificates of public convenience and necessity for scheduled route operations.

The agreements became effective upon the execution thereof by nine "Trunk Carriers and Pan American" as such term is defined in the Articles of Association and will continue in effect until December 31, 1975, and thereafter from year to year subject to withdrawal provisions set forth in the Articles of Association. However, the agreements are terminable to the extent that they may be disapproved by the Board or to the extent that any conditions imposed by the Board may render their continued existence impracticable or of insufficient value to justify their cost.

A copy of the agreements are attached as an appendix hereto. The Board has decided to defer action pending receipt of comments thereon and to establish a procedural framework within which any such comments shall be filed. In this respect, we would expect interested persons to address themselves, in particular, to whether the agreements should be approved or disapproved pursuant to the standards set forth in section 412 of the Federal Aviation Act, and, if approved, for what duration and under what conditions. Procedurally, we shall allow (1) the parties to the agreements a period of 15 days from the date of this order during which to supply detailed justification for approval of the agreements in the public interest; (2) other interested persons a period of 15 days thereafter within which to file answers; and (3) a period of 15 days thereafter for the filing of reply comments.

Accordingly, it is ordered, That:

1. Action on Agreements CAB 22367 and 22368 be and it hereby is deferred;

2. The air carrier parties to Agreements 22367 and 22368 shall file, within 15 days from the date of this order, detailed comments justifying approval of the agreements pursuant to section 412 of the Act;

3. Other interested persons be and they hereby are afforded a period of 15 days thereafter, within which to file answers;

4. The airline parties to the agreements, and other interested persons, be and they hereby are afforded a period of 15 days after answers within which to file reply comments; [2] and

5. This order shall be served upon all certificated air carriers (both scheduled and supplemental); AIRCO, ATA, and NACA; the Departments of Justice, Transportation, and Labor; Airline Dispatchers Association; Brotherhood of Railway, Airline, and Steamship Clerks; Communication Workers of America; Flight Engineers International Association; International Association of Machinists and Aerospace Workers; Transport Workers Union of America; Airline Pilots Association, International; Allied Pilots Association; Aircraft Mechanics Fraternal Association; Airline Employees Association; and International Brotherhood of Teamsters.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-6063 Filed 4-29-71;8:49 am]

[1] Counterparts subsequently were filed on behalf of Hughes Air Corp. doing business as Air West and Mohawk Airlines, Inc.

[1a] Filed as part of the original document.

[2] An original and 19 copies of all comments filed pursuant to ordering paragraphs 2, 3, and 4 hereof shall be filed with the Board's Docket Section. With regard to comments filed pursuant to paragraph 2 hereof, there shall be attached thereto a certificate of service pursuant to our Rule 8(e) (14 CFR 302.8(e)) indicating that service was made upon each person designated in ordering paragraph 5. In the case of answers the certificate of service shall indicate that such persons and all persons filing comments have been served; and in the case of reply comments the certificate of service shall indicate that all persons filing answers have been served. The Board requests that all comments be couched as specifically as possible, and that the use of unsupported or bare conclusory statements be avoided.

[Docket No. 23320; Order 71-4-170]

CANADIAN VOYAGEUR AIRLINES LTD. ET AL.

Statement of Tentative Findings and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1971.

On December 17, 1970, the Canadian Transport Commission issued an order, subsequently implemented by the Air Transport Committee (ATC), amending the Canadian licenses of about 200 U.S. air taxi operators. The amendment, in effect, prohibits U.S. air taxis from operating to remote resort and lake areas in Northwestern Ontario by limiting their operations to two stops on each flight, one being at a Customs port of entry (in effect a technical rather than a traffic stop), the other being at a licensed base

of a Canadian charter commercial air carrier.[1]

The stated reason for the foregoing decision, as expressed by the Chairman of the ATC in a letter to the Chairman of the Civil Aeronautics Board, was receipt by the ATC, since at least 1960, of representations from air carriers, various associations and public officials from the area of Northwestern Ontario, which alleged "* * * that an excessive number of U.S. operators are operating transborder charter services with small aircraft into that area in particular, and that such carriers in their operations have been able to provide service to outlying areas without any check being possible on their activities nor on the traffic carried, and that without such control the area is in imminent danger of irreparable ecological damage and much diminished wildlife reserves." [2] Notwithstanding that this fear of depleted wildlife reserves and other ecological dangers appears to stem, not from the aircraft operations themselves, but rather from the alleged inability to police and enforce fish and game laws with respect to U.S. fishing and hunting parties which may be transported by air carriers of both flags, the ATC did not impose similar restrictions on Canadian small aircraft operators. Thus Canadian operators gained a significant competitive advantage over U.S. air taxis in that they alone continued to be authorized by both governments to provide through services to the wilderness areas involved.

Subsequently, the Board, on two occasions, requested the ATC to suspend the effectiveness of its order, pending bilateral resolution of these problems.[3] However, the most recent response of the ATC indicates that "the [Air Transport] Committee is not prepared to issue any blanket suspension of the orders pending bilateral discussions." [4]

In view of the foregoing, the Board has decided to direct Canadian Voyageur Airlines Ltd., Ignace Airways Ltd., Lac La Croix Quetico Air Services Ltd., Ontario Central Airlines Ltd., and Parsons Airways Ltd.—the Canadian operators holding permits [5] authorizing service in the affected area—and other interested persons to show cause why the foreign air carrier permits held by said Canadian operators should not be amended to restrict the operations of these carriers in a similar manner as U.S. air taxi operators have been restricted.[6] These restrictions will not apply to flights performed for purposes of medical evacuation or other similar emergency situations. In addition, the Board, upon application by the holder, may authorize the transborder carriage of traffic to and from designated areas within the area where the restricted transportation is involved, if the circumstances warrant.[7]

We tentatively find and conclude that the public interest requires the foregoing permit amendments. The basis upon which the named carriers were awarded their authority was the grant of reciprocal authorizations to U.S. carriers to operate to and from the affected area. The unilateral action of the ATC has significantly impaired that reciprocity. The U.S. carriers affected by the ATC decision have been put at an unwarranted competitive disadvantage because Canadian operators were not similarly restricted by their government.[8] The Board considers that as a matter of regulatory policy, a competitive and reciprocal balance of authority to the affected area should be restored by imposition of equivalent restrictions. See e.g., Foreign Air Carrier Permit Terms Investigation, Order 70–6–32, adopting Part 213 of the Board's economic regulations. The amendment here proposed, like the Part 213 regulation, will permit the Board to provide relief from those restrictions on the basis of reciprocal relief granted by the ATC.[9]

Accordingly, pursuant to sections 204(a) and 402 of the Federal Aviation Act of 1958, as amended,

It is ordered, That:

1. Canadian Voyageur Airlines Ltd., Ignace Airways Ltd., Lac La Croix Quetico Air Services Ltd., Ontario Central Airlines Ltd., and Parsons Airways Ltd., and any other interested persons, be and they hereby are directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to approval of the President, amend the foreign air carrier permits held by said carriers, so as to incorporate the following condition:

"The holder shall not engage in the carriage of persons in foreign air transportation between the United States and Canada whose journeys include a prior, subsequent or intervening movement by any commercial air service to or from a point in Ontario, west of a line drawn due North from Blind River, Ontario (46°11′ North latitude, 82°58′ West longitude), extending to the border between Ontario and Manitoba, not the licensed base of any Canadian charter commercial air carrier; *Provided, however,* That the above prohibition shall not apply to flights performed for purposes of medical evacuation, or other similar emergency situation; *And provided, further,* That the Board may, upon application by the holder, authorize the transborder carriage of traffic to and from designated areas within the area where the restricted transportation is involved, when the circumstances warrant; *And provided, further,* That the holder shall notify in writing all persons who contract to use the holder's services of the limitation imposed on its operations.";

2. Any interested person may file with the Board, within 20 days of the date of this order, a statement, supported by evidence, in opposition to or in support of the action set forth hereinabove; [10]

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[1] The operational limitation applies within the area of Northwestern Ontario west of a line drawn due north from Blind River, Ontario (46°11′ N., latitude, 82°58′ W. longitude) and extending to the border between Ontario and Manitoba.

[2] Letter to Chairman Browne from Chairman Belcher of the ATC, dated Dec. 4, 1970.

[3] Telegram of Dec. 21, 1970 and letter of Feb. 12, 1971, from Chairman Browne to Chairman Belcher of the ATC.

[4] Letter dated Mar. 2, 1971 from Chairman Belcher to Chairman Browne. Chairman Browne also received an interim letter dated Feb. 17, 1971, and a telegram of Jan. 5, 1971 from Chairman Belcher of the ATC. The exchange of letters stems from the fact that nonscheduled transborder air taxi operations are not governed by the United States-Canada Air Transport Services Agreement. Rather they are regulated by operating authorizations issued by both governments in a manner agreed upon in a 1951–52 exchange of letters between the Civil Aeronautics Board and the Canadian air transport regulatory body. That exchange includes the provision that "when any authorized operation appears to the aeronautical authorities in either country to be exceeding the limits of the authorization or otherwise creating a problem, the attention of the aeronautical authorities of the other country will be directed to the situation; and where possible, informal consultations should be held between the aeronautical authorities of both countries with a view toward reaching understanding as to further treatment of the carrier or service creating the problem." It further states, however, the "contemplation of the use of such consultative procedures is understood to be without prejudice to the right of either aeronautical authority to take unilateral action in any matter in which it appears to such aeronautical authority to be necessary or desirable."

[5] Issued by Orders 70–12–120, Dec. 21, 1970; E–22882, Nov. 15, 1965; 69–10–160, Oct. 31, 1969; 69–2–63, Feb. 14, 1969; 69–2–62, Feb. 14, 1969, respectively.

[6] We will also require the holders to set forth these limitations, in writing, to all persons who contract to use the holders' transborder services.

[7] The ATC has indicated it would monitor the services to this area and "* * * assess on their merits specific requests for limited operations other than set out in the orders * * *" A similar provision will give the Board the counterpart ability to make exceptions where warranted.

[8] Prior to the imposition of the ATC restrictions, the affected air traffic could move entirely by any properly licensed carriers of either flag. The ATC restrictions require the traffic to move entirely by Canadian carrier, or (less likely) by a transfer between United States and Canadian carriers. The Board's restrictions would permit the affected air traffic to move by transfer between United States and Canadian air carriers. Unaffected air traffic, i.e., to or from any of a large number of licensed bases of Canadian charter commercial air carriers, may continue to move entirely by properly licensed carriers of either flag, including the five holders named herein.

[9] We are not unmindful of the claimed ecological basis for the Canadian action. We note, however, that in its representations to the ATC the Board expressed the view that, "* * * solutions to any problems such as those relating to customs or fish and game laws could be worked out by measures directly appropriate to the problems, applied to the air carriers of both flags or their traffic in a nondiscriminatory manner." Whatever the merits of the ecological problems, regulatory policy requires that they be resolved in a manner other than the unilateral Canadian action taken here, which so seriously impairs reciprocity with respect to operations to this area, by reason of its discrimination against U.S. carriers.

[10] Since provision is made for response to this order, petitions for reconsideration of this order will not be entertained.

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing; and

5. This order shall be served upon each carrier named in paragraph 1 above and the Ambassador of Canada, and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-6064 Filed 4-29-71;8:49 am]

[Docket Nos. 22859, 23080; Order 71-4-173]

DOMESTIC SERVICE MAIL RATES AND DOMESTIC AIR FREIGHT RATE INVESTIGATION

Order Denying Motion for Consolidation of Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1971.

On January 26, 1971 the Postmaster General (PMG) moved for consolidation of the subject proceeding[1] and the proceeding in Docket 22859—Domestic Air Freight Rate Investigation. In support thereof the PMG contends that there is an identity of parties and issues as well as a possible increase in administrative efficiency should the Board grant the instant motion. With respect to the possible increase in administrative efficiency, the PMG alleges inter alia that a consolidation would require only one Hearing Examiner, one trial team and one set of evidentiary submissions.

Flying Tiger filed an answer in support of the PMG's motion to consolidate advancing similar reasons as those set forth by the PMG, and additionally for the reason that Flying Tiger is concerned that prior consideration of the mail rate case will unduly and adversely influence the freight rate investigation in that a misplaced focus on freight costs would result during the course of the mail rate case.

Both United Air Lines, Inc. and Trans World Airlines, Inc., filed answers in opposition and state that consolidation would unduly complicate the freight rate investigation and unjustly delay resolution of the mail rate case.[2] United agrees that there may be substantial identity of carrier parties in these proceedings but indicates that there will be additional parties not common to both proceedings, such as air taxi operators, shippers, and air freight forwarders. United alleges that different legal criteria apply to these proceedings[3] and that this is indicative of a lack of "identity of issues." TWA maintains that administrative efficiency would not increase because the different handling characteristics of mail and freight would necessitate separate exhibits in any event. Finally, the answers in opposition indicate that the setting of mail rates has historically been handled separately and has not been dealt with in a proceeding encompassing matters of a different nature.

On consideration of the factors argued for and against consolidation of these two proceedings, the Board concludes that such consolidation is likely to delay reestablishment of final mail rates, to further complicate an already complex freight rate investigation, and that these likely results outweigh any potential administrative convenience which might flow from joining the cases. It is true, as the Postmaster General points out, that a principal issue in the mail rate proceeding will be the allocation of joint capacity costs to mail and that the same principal issue, as to air freight, will have to be resolved in the freight rate proceeding. Hence a certain amount of duplicative effort may result. Nevertheless cost allocation is to some extent an issue in every rate proceeding, and we are not prepared to hold up the mail rate case for this reason alone.

Prompt reestablishment of final service mail rates is in the interest of all concerned in view of the retroactive application of such rates. Flying Tiger's suggestion that interim final mail rates could be set assumes that agreement, in this regard, could be obtained. We find nothing to support this assumption. Moreover, while many of the parties and issues will be common to both proceedings, many will not. Additionally, the freight rate investigation will require the collection of a considerable volume of pertinent data that is not now reported by the parties to that proceeding. It is apparent that this process will require additional time and to delay the resolution of the mail rate case on this basis does not seem warranted.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly section 204(a) thereof,

It is ordered, That:

1. The motion filed by the Postmaster General for consolidation of proceedings be denied.

2. A copy of this order shall be filed and served upon all parties to Dockets 22859 and 23080.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-6065 Filed 4-29-71;8:49 am]

[Docket No. 18610]

SOUTHERN AIRWAYS, INC., ROUTE REALIGNMENT INVESTIGATION (NEW ROUTE AUTHORITY PHASE)

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 19, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW, Washington, DC, before Examiner Thomas P. Sheehan.

Requests for information and evidence, proposed statements of issues, and proposed procedural dates shall be submitted by counsel for the Bureau of Operating Rights to the Examiner and to the other parties on or before May 12, 1971, and statements by other parties shall be submitted to the Examiner and to Bureau Counsel on or before May 17, 1971.

Dated at Washington, D.C., April 27, 1971.

[SEAL] THOMAS L. WRENN, *Chief Examiner.*

[FR Doc.71-6066 Filed 4-29-71;8:49 am]

[Docket No. 22301]

PIEDMONT AVIATION, INC.

Notice of Postponement and Reassignment of Hearing

Notice is hereby given that hearing in the above-entitled proceeding now assigned for May 4, 1971, in Washington, D.C., before Examiner William H. Dapper is postponed, the place of hearing is changed, and that the case is reassigned to Examiner James S. Keith.

Hearing in the proceeding is reassigned for May 19, 1971, at 10 a.m., e.d.s.t., at the Holiday Inn, Southern Pines, N.C., before Examiner James S. Keith.

Dated at Washington, D.C., April 27, 1971.

[SEAL] THOMAS L. WRENN, *Chief Examiner.*

[FR Doc.71-6067 Filed 4-29-71;8:49 am]

CIVIL SERVICE COMMISSION

MACHINIST; DEPARTMENT OF THE ARMY

Notice of Cancellation of Manpower Shortage

Because of changes in the labor market and demand for this occupation, the Civil

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[1] On Feb. 8, 1971, the original Dockets, Nos. 22671 and 22731, were assigned a new Docket 23080 and a new caption, as referenced, in order to avoid confusion and to describe more accurately the investigation being undertaken herein.

[2] Flying Tiger, in its answer, notes that interim final mail rates could be resolved.

[3] Sections 406 and 1002 of the Federal Aviation Act of 1958, and the rules, regulations and policies associated therewith.

Service Commission has canceled the manpower shortage it had found under 5 U.S.C. section 5723, on March 15, 1966, for positions of Machinist, W-3414-11, Department of the Army, Rock Island Arsenal, Ill.

Effective March 30, 1971, the agency is no longer authorized to pay travel and transportation expenses to first post of duty appointees to these positions.

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

[FR Doc.71-6039 Filed 4-29-71;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

California State Standards; Waiver of Application of Section 209, Clean Air Act, as Amended

On December 24, 1970, the Acting Commissioner, Air Pollution Control Office, by notice published in the FEDERAL REGISTER (35 F.R. 19598), called a public hearing pursuant to section 208(b) of the Clean Air Act, as amended (42 U.S.C. 1857f-6a(a), 81 Stat. 501, Public Law 90-148), concerning action proposed to be taken by the Administrator, Environmental Protection Agency, to wit: After a public hearing, as required by the statute, to waive application of the prohibitions of section 208(a) to the State of California with respect to applicable State standards which are more stringent than applicable Federal standards, unless he finds that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions of that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act, as amended.

As amended by Public Law 91-604 on December 31, 1970, section 208, without substantive change, was renumbered section 209 of the Clean Air Act, as amended.

The public hearing was held in Los Angeles, Calif., on January 26 and 27, 1971. The record of the public hearing was kept open until February 22, 1971, for the submission of written material, data or arguments by interested persons and for further action by the California Air Resources Board concerning the State standards and enforcement procedures with respect to which a waiver of section 209(a) was requested.

Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I find that:

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles and new motor vehicle engines;

2. The State of California requires standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions;

3. Except as hereinafter specified, the following California State standards and related test and enforcement procedures are more stringent than the applicable Federal standards, are required to meet California's compelling and extraordinary conditions and are consistent with section 202(a) of the Clean Air Act, as amended:

(a) Exhaust emission standards, test and approval procedures for diesel engines used in heavy-duty vehicles manufactured after January 1, 1973, and exhaust emission standards, test and approval procedures for 1975 or later engine model-year diesel-powered engines for use in heavy-duty motor vehicles.

(b) Exhaust emission standards, test and approval procedures for 1973 and subsequent model-year engines in heavy-duty gasoline-powered motor vehicles, and exhaust emission standards, test and approval procedures for 1975 and subsequent model-year engines in heavy-duty gasoline-powered motor vehicles.

(c) Exhaust emission standards and test procedures for 1972 model gasoline-powered light-duty model vehicles, except to the extent that (1) special provision is not made for the calculation of hydrocarbon and carbon monoxide emissions from off-road utility vehicles, and (2) the use of 91 research octane number test fuel is required. Application of the 1972 light-duty vehicle emission standards to off-road utility vehicles manufactured during the model year 1972 does not give manufacturers of such vehicles the period of time necessary to develop and apply the requisite technology and does not reflect appropriate consideration of the cost of compliance within such period. The required use of 91 research octane fuel in testing 1972 light-duty motor vehicles does not afford manufacturers of vehicles presently designed to use higher octane fuels the period of time necessary to apply the requisite technology and does not give appropriate consideration to the cost of compliance within such period.

(d) Assembly-line test standards and procedures, except those applicable to 1973 model gasoline-powered light-duty motor vehicles. The State of California presented no evidence that the testing of each vehicle, rather than statistical quality sampling, is likely to result in significant reduction in emissions. In addition, 100 percent assembly-line vehicle testing during the 1973 model-year does not afford manufacturers of vehicles a sufficient period of time to develop and apply the requisite technology and does not reflect appropriate consideration of the cost of compliance within such period. This decision does not prejudice a later request by the State of California for waiver of the application of section 209(a) to a requirement for assembly-line testing of all motor vehicles to be sold in California, which such requirement is made effective at a date which affords manufacturers a sufficient period of time to make necessary arrangements to perform such testing, and where the State of California is able to relate such requirement to improvement in air quality.

(e) Amendments to Part I, Division 26, Health and Safety Code, West Annotated California Codes, as enacted by Chapter 1585, California Laws 1970, Assembly Bill No. 1174, approved September 20, 1970, except to the extent that Bill No. 1174 prohibits sale and registration of vehicles manufactured during the 1972 model-year and requires the use of 91 research octane number fuel in testing such vehicles. Application of Bill No. 1174 to 1972 model-year vehicles does not afford manufacturers of vehicles presently designed to use higher octane fuels the period of time necessary to apply the requisite technology and does not give appropriate consideration to the cost of compliance within such period.

4. The State of California has taken the position that section 9250.5, Vehicle Code, West Annotated California Codes, as enacted by Chapter 1586, California Laws 1970, Assembly Bill 919, approved September 19, 1970, is not subject to section 209(a). Based upon the State of California's representations as to the manner in which this bill will be implemented, it is not a "standard relating to the control of emissions" and does not "require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment," and is not subject to the provisions of section 209(a).

Now therefore, I hereby waive the application of section 209(a) to the State of California with respect to the following identified State standards and related enforcement procedures:

1. Provisions of title 13, California Administrative Code (as amended February 17, 1971):

(a) Section 1942 (Exhaust emission standards for diesel engines in 1973 and subsequent model vehicles over 6,001 pounds gross vehicle weight);

(b) Section 1943 (Exhaust emission standards for 1973 and subsequent model year engines in gasoline-powered motor vehicles over 6,001 pounds gross vehicle weight);

(c) Section 1944 (Exhaust emission standards for 1972 model gasoline-powered motor vehicles under 6,001 pounds gross vehicle weight);

(d) Section 2110, insofar as applicable to the 1972 model-year only (Assembly-Line for Pre-Delivery Testing).

2. Amendments to Part I, Division 26, Health and Safety Code, West Annotated California Codes, as enacted by Chapter 1585, California Laws 1970, Assembly Bill No. 1174, approved September 20, 1970: *Provided*, That due to considerations of technological feasibility,

this waiver shall not permit application of said Bill No. 1174 to the sale and registration of vehicles manufactured during the 1972 model year nor require the use of 91 research octane number fuel for testing 1972 model year vehicles.

3. Test Procedure:

(a) California Exhaust Emission Standards, Test and Approval Procedures for Diesel Engines in 1973 and Subsequent Model Vehicles over 6,001 Pounds Gross Vehicle Weight, dated November 18, 1970, amended February 17, 1971;

(b) California Exhaust Emission Standards, Test and Approval Procedures for 1973 and Subsequent Model Year Engines in Gasoline-Powered Motor Vehicles over 6,001 Pounds Gross Vehicle Weight, dated February 17, 1971;

(c) California Exhaust Emission Standards and Test Procedures for 1972-Model Gasoline-Powered Motor Vehicles under 6,001 Pounds Gross Vehicle Weight, adopted by the Air Resources Board December 15, 1970, amended February 17, 1971: *Provided*, That due to considerations of technological feasibility, this waiver for such standards and procedures (1) shall not become applicable with respect to hydrocarbon and carbon monoxide emissions from off-road utility vehicles (as defined at 45 CFR § 85.1(a)(8), 35 F.R. 17288) unless provision is made for calculating emissions of hydrocarbons and carbon monoxide equivalent to that provided at 45 CFR § 85.87(b), 35 F.R. 17301, and (2) shall not operate to require use of 91 research octane test fuel in testing 1972-model vehicles:

(d) California Assembly-Line Test Procedure, dated September 16, 1970, amended February 17, 1971, only insofar as applicable to the 1972 model-year.

This waiver is applicable only with respect to the model years specified above as defined in the applicable test procedures.

Certified copies of the above standards and procedures are available for inspection at Office of the Commissioner, Air Pollution Control Office, Environmental Protection Agency, 5600 Fishers Lane, Rockville, MD 20852. Copies of the standards and procedures may be obtained from the California Air Resources Board, 1108 14th Street, Sacramento, CA 95814.

Dated: April 27, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-6040 Filed 4-29-71;8:47 am]

McLAUGHLIN GORMLEY KING CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1134) has been filed by the McLaughlin Gormley King Co., 1715 Southeast Fifth Street, Minneapolis, MN 55414, proposing the establishment of tolerances (21 CFR Part 420) for residues of the insecticide *N*-octylbicycloheptene dicarboximide in the raw agricultural commodities milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses and sheep at 0.25 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a microcoulometric gas chromatographic procedure.

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6026 Filed 4-29-71;8:45 am]

BACILLUS THURINGIENSIS BERLINER

Notice of Establishment of Temporary Exemption From Requirement of Tolerance for Microbial Pesticide

Nutrilite Products, Inc., Post Office Box 98, Lakeview, Calif. 92353, requested a temporary exemption from the requirement of a tolerance for residues of the insecticide *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities peas and walnuts.

The Fish and Wildlife Service, U.S. Department of the Interior, advised that it has no objection to this temporary exemption.

It has been determined that a temporary exemption from requirement of a tolerance for residues of *B. thuringiensis* in or on peas and walnuts will protect the public health. It is therefore established as requested on condition that the insecticide is used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Nutrilite Products, Inc. name. This temporary exemption will expire April 23, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 512; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Commissioner or Acting Commissioner of the Pesticides Office, Environmental Protection Agency (36 F.R. 1228).

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6025 Filed 4-29-71;8:45 am]

VELSICOL CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1131) has been filed by Velsicol Chemical Corp., 1725 K Street NW., Washington, DC 20006, proposing the establishment of a tolerance (21 CFR Part 420) for the combined residues of the herbicide dicamba and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on the raw agricultural commodity asparagus at 1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is an electron-capture gas chromatographic technique.

Dated: April 23, 1971.

R. E. JOHNSON,
Acting Commissioner,
Pesticides Office.

[FR Doc.71-6024 Filed 4-29-71;8:45 am]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

ROSS LAKE ON SKAGIT RIVER

Public Hearings

The International Joint Commission announces that under date of April 7, 1971, the Governments of Canada and the United States requested the Commission to investigate the environmental consequences in Canada resulting from the elevation of Ross Lake on the Skagit River from elevation 1,602.5 feet to 1,725 feet above mean sea level; to report on the nature, scope, and impact of these consequences; and, to make such recommendations, not inconsistent with the Commission's Order of Approval dated January 27, 1942, and the related Agreement dated January 10, 1967, between the city of Seattle and the Province of British Columbia, as the Commission may deem appropriate for the protection and enhancement of the environment and the ecology in the area of Canada affected by the elevation of Ross Lake. The Commission has been requested to submit its conclusions and recommendations to the Governments by October 7, 1971.

In order to provide convenient opportunity for all those interested to be heard regarding the above matter, the Commission will conduct public hearings at the times and places listed hereunder.

Oral and documentary evidence that is relevant may be presented at the hearing, in person or by counsel. Depending on the number of persons wishing to be heard, the Commission may limit the time alloted to each witness. While not mandatory, written statements are desirable to supplement oral testimony and to insure accuracy of the record. When a written statement is presented, thirty (30) copies should be provided for Commission purposes. Additional copies of written statements may be deposited with the secretaries at the hearings for distribution to the news media and others interested.

DATES AND PLACES OF HEARINGS

Date	Time	Place
June 3, 1971	10 a.m.	Assumption School, 2116 Cornwall Ave., Bellingham, WA 98225.
June 4, 1971 [1]	9 a.m.	The Queen Elizabeth Playhouse, Dunsmuir and Hamilton Sts., Vancouver, BC.

[1] If necessary this hearing may be continued on June 5, at 9 a.m.

WILLIAM A. BULLARD,
Secretary, U.S. Section,
International Joint Commission.

D. G. CHANCE,
Secretary, Canadian Section,
International Joint Commission.

APRIL 26, 1971.

[FR Doc.71-6055 Filed 4-29-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2860]

B.S.F. CO.

Notice of Filing of Application for Order Exempting Proposed Transaction and for Order Granting Application

APRIL 23, 1971.

Notice is hereby given that B.S.F. Co. (applicant), 343 Second Street, Suite M, Los Altos, CA 94022, a Delaware corporation, registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to sections 17(b) and 17(d) of the Act and Rule 17d-1 under the Act. Applicant requests an order pursuant to 17(b) exempting from the provisions of section 17(a) of the Act the proposed purchase from applicant by Chicago Helicopter Industries, Inc. (Industries) or one of its wholly owned subsidiaries of applicant's entire holdings of 9,643 shares of common stock of Mercantile National Bank of Chicago (Mercantile) at a price of $75 a share or an aggregate price of $723,225, as more fully described below. Applicant also requests an order granting said application pursuant to section 17(d) and Rule 17d-1 with respect to such proposed transaction to the extent that such section of the Act and the rule may be deemed applicable.

All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

The parties. Industries is a Delaware corporation which is engaged through its wholly owned subsidiary, Chicago Helicopter Airways, Inc., in the business of chartering and servicing helicopters and of transporting persons and property by air. Industries, through another wholly owned subsidiary, Helicopter Air Service, Inc. (Service), owns 89,279 shares or 70 percent of the outstanding common stock of Mercantile. Applicant owns approximately 7.6 percent of the outstanding common stock of Mercantile. Accordingly, Mercantile is an affiliated person of applicant within the meaning of section 2(a)(3) of the Act and Industries is an affiliated person of an affiliated person (Mercantile) of applicant, a registered investment company.

El-Tronics, Inc., a Pennsylvania corporation, is also an affiliated person of applicant within the meaning of section 2(a)(3) of the Act by virtue of its ownership or control of about 32 percent of the outstanding stock of applicant.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, makes it unlawful for an affiliated person (Industries) of an affiliated person (Mercantile) of a registered investment company (applicant) to purchase any security or other property from such registered investment company (applicant) unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to participate in, or to effect any transaction in which such registered company or a company controlled by such registered company is a joint or joint and several participant, unless, prior thereto, an application regarding such arrangement has been filed with and granted by the Commission. The Commission, in passing upon such application, will consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Background. By an agreement between El-Tronics and Industries dated May 7, 1970, at which time El-Tronics also owned or controlled about 32 percent of applicant's outstanding stock, El-Tronics sold to Industries all of the former's holdings of 24,758 shares or about 19.5 percent of the outstanding common stock of Mercantile at $75 a share or an aggregate price of $1,856,850 evidenced by an interest bearing promissory note of Industries. The note was paid in full on August 31, 1970, at which time the Mercantile shares were delivered to Industries. Industries has transferred these Mercantile shares to its wholly owned subsidiary, Service. At the times mentioned in the previous sentence, applicant owned the 9,643 shares of Mercantile common stock now proposed to be sold to Industries, but at such time Industries purchased shares of Mercantile only from El-Tronics and not from applicant.

Another affiliated person of applicant, Fifth Avenue Coach Lines, Inc. (Fifth), has previously sold Mercantile shares to a company which transferred them to Industries' wholly owned subsidiary, Service. Applicant owns about 9 percent of Fifth's outstanding common stock and about 27 percent of the outstanding common stock of Gray Line Corp., which, in turn, owns about 24 percent of Fifth's outstanding common stock. On October 31, 1969, Fifth sold 33,215 shares of Mercantile common stock to Gleaco Corp. (which transferred such shares to Service) at a price of $100 a share. At the time of such sale and transfer, Fifth was under the jurisdiction and in the possession of a Receiver-Trustee designated by the U.S. District Court for the Southern District of New York, which court authorized consummation of the sale and transfer.

Terms of proposed transaction. The application states that the proposed purchase by Industries of the 9,643 shares of Mercantile common stock from applicant is to be made pursuant to an agreement between such parties dated April 1, 1971. Under the terms of such agreement, the entire purchase price of $723,225 ($75 a share) is to be paid upon delivery of the Mercantile shares on the closing date as defined in the agreement.

The agreement provides that neither applicant nor any affiliate nor associate (as defined) of applicant will make any claim on behalf of Mercantile or its shareholders or for on behalf of itself against Industries or Service arising from the sale by El-Tronics to Industries of the 24,758 shares of Mercantile stock discussed hereinabove. The agreement further provides that neither applicant nor any affiliate nor Associate (as defined) of applicant will make any claim for or on behalf of Mercantile or its shareholders or for or on behalf of itself against the Receiver-Trustee of Fifth, or against Gleaco Corp., Industries, or Service arising from the sale by Fifth to Gleaco of the 33,215 shares of Mercantile stock.

Supporting statements. The high and low bid and asked prices of Mercantile common stock in the over-the-counter market for the period commencing 1966 through February 8, 1971, as reported by the National Quotation Bureau, Inc., are shown in Table I below:

TABLE I

	Bid		Asked	
	High	Low	High	Low
1966	59½	55	63	57
1967 [1]	75	51	67	55
1968	61	48	66	52
1969:				
First quarter	60	55	65	63
Second quarter	84	67	95	85
Third quarter	80	70	85	83
Fourth quarter	55	55	60	55
1970:				
First quarter	71	68½	76	73
Second quarter	70	66	75	70
Third quarter [2]	65	58	70	62
Fourth quarter	63	60	67	65
1971:				
First quarter [3]	63	62	68	67

[1] No asked price appeared at time of high bid which occurred in first quarter.
[2] Through Sept. 29, 1970.
[3] Through Feb. 8, 1971.

The consolidated per share earnings of Mercantile common stock for the years 1966–1969, inclusive, are shown in Table II below. No loan loss provision was charged to operating expenses until 1969, and the figures for 1968 have been restated to reflect such charges in the amount of $1.63 a share. The figures for 1969 both before and after audit adjustments reflect charges for loan loss provision equal to $0.86 a share.

TABLE II

	Per share net income	
	Before net securities losses	After net securities losses
1966	$4.26	$4.26
1967	4.33	4.33
1968 (restated)	2.52	2.31
1969	1.86	1.60
1969 (adjusted)	1.24	.98

The application states that the proposed purchase price is fair and reasonable; that the proposed transaction is consistent with the policies of applicant and the general purposes of the Act and does not involve overreaching on the part of any person concerned; and that the participation of applicant in any proposed arrangement subject to section 17(d) of the Act and Rule 17d–1 of the Act is not on a basis different from or less advantageous than that of the other participants.

Notice is further given that any interested person may, not later than May 10, 1971, 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 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 the company at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-6031 Filed 4-29-71;8:46 am]

[812-2924]

PURITAN FUND, INC., AND UNITED STATES SMELTING, REFINING AND MINING CO.

Notice of Filing of Application for Order Exempting Transaction

APRIL 23, 1971.

Notice is hereby given that Puritan Fund, Inc. (Fund) 35 Congress Street, Boston, MA 02109, and United States Smelting, Refining and Mining Co. (U.S. Smelting), 235 East 42d Street, New York, NY, hereinafter referred to collectively as "Applicants," have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting from section 17(a) of the Act a transaction whereby U.S. Smelting will sell to the Fund and then repurchase from the Fund 11,600 shares of U.S. Smelting's $5.50 Cumulative Preferred Stock ($100 liquidation value per share) (Smelting Preferred). Both the sale and the repurchase will be at a net price of $66.50 per share. All interested persons are referred to the application on file with the Commission for a statement of the Applicants' representations which are summarized below.

The Fund is registered as an open-end, diversified, management investment company under the Act. U.S. Smelting is a Maine corporation and it and its subsidiaries are principally engaged in the business of the fabrication of metal products, mining and milling of ores, and the acquisition, exploration and development of oil and gas properties. Both U.S. Smelting's preferred and its common stock are listed on the New York Stock Exchange. The Fund presently owns 125,000 shares, or approximately 5.01 percent of U.S. Smelting's outstanding voting securities. There is no affiliation between U.S. Smelting and the Fund other than the described stock ownership.

On January 13, 1971, in a transaction represented by the Applicants to have been negotiated at arms length, the Fund sold to U.S. Smelting 11,600 shares of Smelting Preferred at a price of $66.50 per share. U.S. Smelting represents that its purpose in acquiring Smelting Preferred was to satisfy a certain provision set forth in its bylaws. Subsequent to such sale, the Applicants discovered that at the time of such sale the Fund owned 133,600 shares, or approximately 5.32 percent of U.S. Smelting's outstanding voting securities. No order exempting such sale from the provisions of section 17(a) of the Act had been issued by the Commission.

Section 17(a) of the Act provides, among other things, that it shall be unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to purchase from such registered investment company any security or other property (except securities of which the seller is the issuer), unless an application regarding such transaction has been granted by the Commission.

In order to avoid any question which might be raised as to the propriety of the sale which has taken place, U.S. Smelting now proposes to sell the 11,600 shares of Smelting Preferred back to the Fund at a net price of $66.50 per share and further proposes immediately to repurchase said shares from the Fund at the same net price. There will be no charges or fees associated with the sale and repurchase other than applicable state transfer fees which will be paid by the seller in each of the transactions and legal fees to be borne by each party.

The Applicants believe that the issuance of an exemptive order in connection with this proposed sale and purchase is appropriate in the public interest because the terms of the proposed transaction are reasonable and fair to the Fund and U.S. Smelting and do not involve any overreaching on the part of the Fund or U.S. Smelting for the reason that:

(a) At the time of the original transaction there were only 177,559 shares of Smelting Preferred outstanding, which were infrequently traded;

(b) In view of the limited market for the Smelting Preferred, the proposed sale and repurchase offers both parties an opportunity to confirm a transaction whereby U.S. Smelting acquired and the Fund disposed of a substantial block of Smelting Preferred at a price which Applicants contend was advantageous to both parties;

(c) If a transaction involving such a large number of shares of Smelting Preferred in relation to the number of shares of Smelting Preferred outstanding had been effected by U.S. Smelting or the Fund in the market through the New York Stock Exchange, Applicants assert it would have taken a considerable length of time to complete and might not have been accomplished at $66.50 per share; and

(d) It enables the parties to confirm a transaction allegedly negotiated at arms-length between two separate distinct persons who, Applicants contend, are "affiliated persons" solely by reason of Fund owning approximately 5.32 percent of U.S. Smelting's outstanding voting securities.

The Fund represents that the sale was and the proposed purchase and sale will be consistent with its policy as recited in its registration statement and reports filed under the Act and both Applicants believe that the transactions are consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than May 17, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications 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 Applicants at the addresses 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 thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-6032 Filed 4-29-71;8:46 am]

[811-1699]

SAN FRANCISCO FUND

Notice of Proposal To Terminate Registration

APRIL 23, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that The San Francisco Fund (Fund), c/o Bryant M. Smith, Esq., Angell, Adams & Holmes, 200 Bush Street, San Francisco, CA 94104, registered under the Act as a closed-end nondiversified management investment company, has ceased to be an investment company.

Fund registered under the Act on July 31, 1968. Information available to the Commission indicates that on April 29, 1970 the Fund's Board of Directors voted to dissolve the corporation; all monies held in escrow under a trust arrangement were being refunded to subscribers for Fund shares; all monies received to provide the initial capital were being refunded to the respective persons who supplied same; and that no future public offering of the Fund's shares was contemplated. Fund's registration statement under the Securities Act of 1933 was withdrawn on May 13, 1970.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect, and that, if necessary for the protection of investors, such order may be made upon appropriate conditions.

Notice is further given that any interested person may, not later than May 14, 1971, 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon The San Francisco Fund, in care of the address set forth above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-6033 Filed 4-29-71;8:46 am]

[811-153]

UNITED STATES ELECTRIC LIGHT & POWER SHARES, INC., TRUST CERTIFICATES, SERIES A

Notice of Proposal To Terminate Registration

APRIL 23, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that United States Electric Light & Power Shares, Inc., Trust Certificates, Series A (Trust), 1 Wall Street, New York, NY, registered under the Act as a unit investment trust, has ceased to be an investment company.

Commission records disclose that Trust was created pursuant to an agreement and indenture which terminated on March 3, 1947, at which time Trust began a distribution and liquidation of its assets pursuant to the terms of the trust. Substantially all of the assets have been so distributed, and the remaining assets are held by Trust's Depositor to satisfy unsurrendered certificates. Trust has been inactive since March 3, 1947.

Section 8(f) of the Act provides, in pertinent part, that when the Commission finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 13, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications 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 thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,
Recording Secretary.

[FR Doc.71-6034 Filed 4-29-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

ELECTRONIC SYSTEMS INVESTMENT CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) for transfer of control of Electronic Systems Investment Corp. (ESIC), 4321 Hartwick Road, College Park, MD 20740, a Federal

licensee under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.), License No. 03/04-0048.

ESIC was licensed on May 16, 1964, and as of October 31, 1970, had paid-in capital and paid-in surplus from private sources of $155,000.

Messrs. George H. Bookbinder and Stanley L. Schwartz and his associates propose to purchase individually the 56 percent equity interest in ESIC presently held by Messrs. Henry M. Kannee, Allen M. Wolpe and Donald E. Wolpe. The proposed transaction is subject to and contingent upon the approval of SBA.

The names and addresses of the proposed officers, directors, and stockholders of ESIC are as follows:

George Bookbinder, 110 East End Avenue, New York, NY, President, Director, Secretary.
Stanley L. Schwartz, 4 Sloanes Court, Sands Point, NY, Executive Vice President, Director.
Leo Fine, 2A Shore Park Road, Great Neck, NY.
Irving Gruber, 136 Circle Drive, Roslyn Heights, NY, Director, Treasurer.
Jules L. Chorna, 39 The Oaks, Roslyn, NY.
Joseph Auerbach, 33-74 Utopia Parkway, Flushing, NY.
B & B Investors, by Gerald Blum, partner, 70 Pine Street, New York, NY, Director.
Miller & Summit, by Elliot Miller, partner, 90 Broad Street, New York, NY, Director.

Three additional directors will be elected subsequent to the consummation of the change of control.

As a result of his purchase of stock, Mr. Bookbinder will increase his equity ownership from 44 percent to 50 percent. Only two shareholders, Mr. Bookbinder, 50 percent, and Mr. Schwartz, 20 percent) will own as much as 10 percent of the capital stock.

It is also proposed to move the principal office of ESIC to the offices of Mr. Bookbinder at 420 Lexington Avenue, New York, NY 10017.

It is further proposed that, after the transfer of control is consummated, the shareholders of ESIC will purchase additional stock from ESIC for approximately $40,000. Also, the shareholders have committed themselves to increase ESIC's capitalization to $300,000 within 1 year from the date of SBA's approval.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and of the proposed transferees, and the possibility of successful operations of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such comments should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed transferee in a newspaper of general circulation in New York, N.Y., and College Park, Md.

Dated: April 19, 1971.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.71-6029 Filed 4-29-71;8:46 am]

FUTURA CAPITAL CORP.

Notice of Issuance of License To Operate as Small Business Investment Company

On March 31, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 5944) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing Small Business Investment Companies (33 F.R. 326; 13 CFR Part 107) for a license to operate as a small business investment company by Futura Capital Corp., 4218 Roosevelt Way NE., Seattle, WA 98105.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued License No. 12/13-0028 to Futura Capital Corp. to operate as a small business investment company.

Dated: April 22, 1971.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.71-6030 Filed 4-29-71;8:46 am]

TARIFF COMMISSION

[AA1921-76]

GLASS FROM TAIWAN

Notice of Investigation and Hearing

Having received advice from the Treasury Department on April 21, 1971, that clear sheet glass from Taiwan is being, and is likely to be, sold in the United States at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m., e.d.s.t., on June 8, 1971. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least 5 days in advance of the date set for the hearing.

Issued: April 27, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-6059 Filed 4-29-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 270 (Sub-No. 1)]

INVESTIGATION OF RAILROAD FREIGHT RATE STRUCTURE, EXPORT-IMPORT RATES AND CHARGES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of April 1971.

Ex Parte No. 270 was instituted by our order of December 11, 1970, which was published in the FEDERAL REGISTER of December 17, 1970, under authority of section 13(2) of the Interstate Commerce Act. We requested that all persons having an interest therein should file their views, including the subject of further proceedings.

In response, interests representing the Great Lakes ports, namely, Council of Lake Erie Ports, Great Lakes Task Force (a voluntary association of the Great Lakes Commission, Great Lakes Terminals Association, International Longshoremen's Association, U.S. Great Lakes Shipping Association, and others), Green Bay Port of Wisconsin, Illinois Department of Business and Economic Development, International Association of Great Lakes Ports, Attorney General for the State of Michigan, and the Milwaukee Board of Harbor Commissioners complained that the export-import rates to and from those ports have become distorted in relation to corresponding rates to and from other ports, and that outstanding orders of this Commission are thereby ignored.

Subsequently, in Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, decided March 4, 1971, in authorizing maximum increases on export-import traffic of 12 percent, with certain limitations and exceptions, we referred to the contentions of Great Lakes and Pacific Coast port interests that the percentage increases varying by territories and the absence of any previously prescribed relationships involving those ports, which relationships otherwise were required to be observed, caused unjust discrimination and undue prejudice and preference, and we stated:

Whether there exists, or should exist, a particular relationship in rates on import or export traffic passing through

various seaports requires careful and detailed consideration of their particular circumstances. The origin or destination areas from and to which the traffic flows requires determination. It is most unlikely that traffic originating within 50 miles of a west coast port will flow through a gulf port merely because rates to the latter are increased in these proceedings by a lesser percentage. We could not do justice to the many commercial interests affected thereby should we attempt to resolve such matters in this proceeding, and our conclusions herein are not to be taken as a prescription of port relationships.

When schedules establishing the increases on export-import rates were filed, protests were registered by the Pacific Coast ports and other interests, namely, Puget Sound Traffic Association, Northwest Marine Terminals Association, Inc., Port of Longview, Port of Tacoma, Port of Portland, and the Pacific Coast Association of Port Authorities, representing most of the major ports in California, Oregon, Washington, Alaska, Hawaii, and British Columbia, urging that authorized percentage increases in export-import rates have widened the spread in their rates over those to and from competitive ports, thus distorting previous relationships.

Based on the foregoing, there is reason to believe that certain export-import rates and charges to and from the Great Lakes and Pacific Coast ports may be unjust and unreasonable, unjustly discriminatory, or unduly prejudicial and preferential in violation of sections 1, 2, or 3 of the act, respectively, or otherwise unlawful.

In view of the similarity of the positions taken by the Great Lakes and Pacific Coast port interests, and of allegations that outstanding orders are being ignored, it is deemed appropriate to consider these matters at this time, constituting the first phase of our overall inquiry into the rail freight rate structure; accordingly,

It is ordered, That, under the authority of section 13(2) of the act, on our own motion, an investigation be, and it is hereby, instituted into the export-import rates and/or charges to and from (1) the Pacific Coast ports, on the one hand, and, on the other, the other recognized groups of ports, and (2) the Great Lakes ports, on the one hand, and, on the other, the other recognized groups of ports.

It is further ordered, That all common carriers by railroad subject to the jurisdiction of this Commission be, and they are hereby, made respondents to this proceeding.

It is further ordered, That to more specifically identify the issues and determine the most efficient method of proceeding, among other things, it is deemed desirable to assign the matter for a prehearing conference. The prehearing conference will be held before a Hearing Examiner, in the immediate future, in Chicago, Ill. If oral hearings subsequently are deemed necessary, it is contemplated that they will be held at selected points throughout the Nation, if warranted, to enable the active participation of those who might otherwise be unable to attend.

It is further ordered, That statutory notice of the institution of this proceeding be given to the general public by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons, and by service of a copy of this order on each party to the proceeding in Ex Parte No. 270.

And it is further ordered, That all persons who wish actively to participate in this proceeding (Sub-No. 1) and to file and to receive copies of pleadings shall make known that fact by notifying this Commission in writing within 15 days after publication of this order in the FEDERAL REGISTER. At that time, they should state the extent of their interests as well as their position relative to the investigation. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests shall endeavor to consolidate their presentation to the greatest extent possible. The Commission desires participation only of those who intend to take an active part in the proceeding. It is not contemplated that there will be any further general public notification published in the FEDERAL REGISTER of the subsequent handling of this proceeding. Subsequent notices and orders entered herein will be served solely on the persons responding to this order.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-6060 Filed 4-29-71;8:49 am]

[Notice 286]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 1971.

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 (6) 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 19105 (Sub-No. 32 TA), filed April 21, 1971. Applicant: FORBES TRANSFER CO., INC., Post Office Box 3544 (South Goldsboro Street extension), Wilson, NC, 27893. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), in vehicles equipped with mechanical refrigeration and meat rails, from the plantsite and storage facilities utilized by Swift at Wilson, N.C., and destined to South Carolina and Virginia, restricted to shipments originating at the plantsite of Swift at Wilson, N.C., and destined to South Carolina and Virginia, for 180 days. Supporting shipper: John K. Drake, Assistant General Transportation Manager, Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27661.

No. MC 74647 (Sub-No. 12 TA), filed April 21, 1971. Applicant: PASCO SALVINE, doing business as P. SLAVINO TRANSPORT, 6615 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper or pulpboard*, not corrugated, from Tacoma, Wash., to Canby, Oreg., for 180 days. Supporting shipper: Container Corp of American, 817 East 27th Street, Tacoma, WA 98421. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, WA.

No. MC 95540 (Sub-No. 803 TA), filed April 21, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as rescribed in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Dubuque, Iowa, to points in Virginia, for 180 days. Supporting shipper: Dubuque

Packing Co., Dubuque, Iowa. Send protests to: District Supervisor, Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 106398 (Sub-No. 540 TA), filed April 21, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 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: *Prefabricated swimming pools, knocked down complete* (except set-up) or in sections *including all component parts, materials, fixtures, supplies and accessories* when shipped therewith, from the plantsite of Fanta-Sea Swim Centers, Inc., Clarence, N.Y., to points in Pennsylvania, New York, Connecticut, Massachusetts, Michigan, Ohio, Tennessee, and Vermont, for 180 days. Supporting shipper: Paul Gering, President, Fanta-Sea Swim Center, Inc., 101151 Main Street, Clarence, NY 14031. 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, OK 73102.

No. MC 108053 (Sub-No. 103 TA), filed April 21, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., 1520 West 23d Street, Fremont, NE 68025. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Arizona, California, Oregon, Utah, and Washington (restricted to traffic originating at the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr.), for 180 days. Supporting shipper: Beefland International, Inc., Council Bluffs, Iowa. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, 705 Federal Office Building, Bureau of Operations, Omaha, NE 68102.

No. MC 110589 (Sub-No. 5 TA), filed April 21, 1971. Applicant: J. E. LAMMERT TRANSFER, INC., 317 North Oak Street, Grand Island, NE 68801. Applicant's representative: Donn K. Bieber, Bieber & Itradovsky, Schuyler, Nebr. 68661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses:* (1) from York, Nebr., to Wichita, Kans.; and (2) from York, Nebr., and Wichita, Kans., to points in Alabama, California, District of Columbia, Florida, Georgia, Kansas, Louisiana, Maryland, Missouri, Mississippi, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, for 180 days. Supporting shipper: Sunflower Beef Inc. & Sunflower Beef Packers of Nebraska, Inc., 1410 East 21st Street, Wichita, KS 67208. Send protests to: District Supervisor, Max H. Johnston, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 111103 (Sub-No. 35 TA), filed April 21, 1971. Applicant: PROTECTIVE MOTOR SERVICE CO., INC., 725–29 South Broad St., Philadelphia, PA 19147. Applicant's representative: Charles E. Cole (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, between Washington, D.C., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii, for 180 days. Supporting shipper: General Services Administration, Washington, D.C. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 114273 (Sub-No. 86 TA), filed April 21, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue, NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite of Tama Corp. near Tama, Iowa, to points in Illinois, Indiana, Michigan, Missouri, Ohio, and Wisconsin, for 180 days. Supporting Shipper: Fred Shover, Tama Corp., Tama, Iowa. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, IA 52801.

No. MC 115931 (Sub-No. 23 TA), filed April 21, 1971. Applicant: BEE LINE TRANSPORTATION, INC., Berwald Road, Post Office Box 925, Baker, MT 59313. Applicant's representative: Gary R. Paulsen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Rosebud County, Mont., to points in Illinois, Iowa, Nebraska, and Wisconsin, for 180 days. Supporting shipper: Ashland Lumber Co., Post Office Box 78, Ashland, Mont. 59003. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, MT 59101.

No. MC 123255 (Sub-No. 10 TA), filed April 21, 1971. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans metal, and closures therefor*, from Sturgis, Mich., to Columbus, Ohio, for 180 days. Supporting shipper: Ross Laboratories, 625 Cleveland Avenue, Columbus, OH 43216. Send protests to: A. M. Culver, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 124078 (Sub-No. 484 TA), filed April 21, 1971. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Privette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, from Spencerville, Ohio, to Britton, Mich., and points in Indiana, for 180 days. Supporting Shipper: Farm Service Center, Post Office Box 74, Spencerville, OH (Russell I. Pisle, president). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 133240 (Sub-No. 15 TA), filed April 21, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles*, between the facilities of Cindy Lee Corp. and its subsidiaries located at New York, N.Y., and Passaic, N.J., on the one hand, and, on the other, Rock Hill, S.C., and Danville, Va., Greensboro, N.C., Carlisle, S.C., Old Fort, N.C., Swainsboro, Ga., Mount Wolf, Pa., Fall River, Mass., Memphis, Tenn., Yadkin, N.C., Limon, S.C., Providence, R.I., New Bedford, Mass., and Appatomax, Va., for 180 days. Supporting shipper: Cindy Lee Corp., 112 West 34th Street, New York, N.Y. Send protests to: District Supervisor R. E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135514 TA, filed April 21, 1971. Applicant: PRESTIGE MOVING AND STORAGE, INC., 8290 Alpine Avenue, Sacramento, CA 95826. Applicant's representative: Alan F. Wohlstetter, One Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Alpine, Amador, El Dorado, Nevada, Placer, Sacramento, and Yolo Counties, Calif.,

restricted to the transportation of traffic having a prior or subsequent movement in containers and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Delcher Intercontinental Moving Service, 262 Riverside Avenue, Jacksonville, FL 32201. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-6061 Filed 4-29-71;8:49 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

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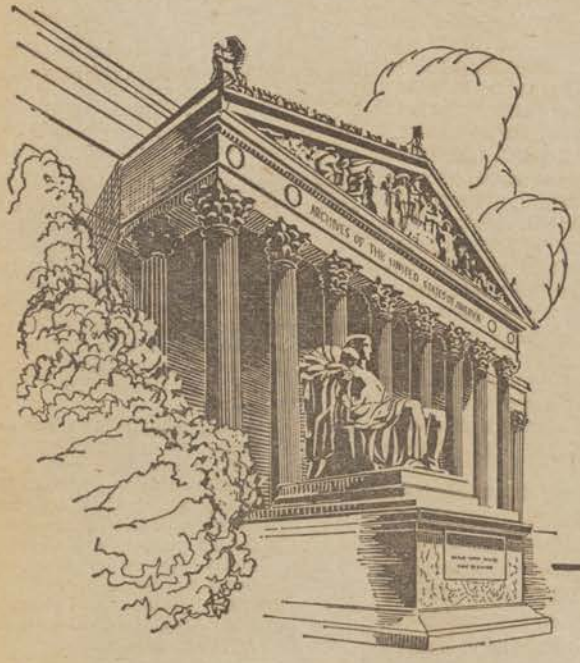
National Primary and Secondary Ambient Air Quality Standards



Title 42—PUBLIC HEALTH

Chapter IV—Environmental Protection Agency

PART 410—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

Notices of proposed rule-making published in the FEDERAL REGISTER on January 30, 1971 (36 F.R. 1502) and March 26, 1971 (36 F.R. 5867) set forth regulations prescribing national primary and secondary ambient air quality standards proposed for adoption as Part 410 of 42 CFR. Interested persons were afforded an opportunity to participate in the rule-making by submitting comments. Following review of the proposed standards and consideration of the comments, the standards have been revised as described below and are being promulgated today.

National primary ambient air quality standards are those which, in the judgment of the Administrator, based on the air quality criteria and allowing an adequate margin of safety, are requisite to protect the public health.

National secondary ambient air quality standards are those which, in the judgment of the Administrator, based on the air quality criteria, are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air.

The comments submitted to the Environmental Protection Agency reflect divergences of opinion among interested and informed persons as to the proper interpretation of available data on the public health and welfare effects of the six pollutants for which national ambient air quality standards are being established. A number of comments question the feasibility of implementing the proposed standards. Because the Clean Air Act, as amended, does not permit any factors other than health to be taken into account in setting the primary standards, no revisions were made on this basis. In reviewing the proposed standards, the Environmental Protection Agency limited its consideration to comments concerning the validity of the scientific basis of the standards.

Current scientific knowledge of the health and welfare hazards of these air pollutants is imperfect. To increase and improve this knowledge, the Environmental Protection Agency will continue to conduct and support relevant research. At the same time, the need for increased knowledge of the health and welfare effects of air pollution cannot justify failure to take action based on knowledge presently available. The Clean Air Act, as amended, requires promulgation at this time of national standards for six air pollutants on the basis of available data set forth in air quality criteria documents. Thus, the Administrator is required to make judgments as to the proper interpretation of presently available data and to establish national primary standards which include an adequate margin of safety to protect human health. Where the validity of available research data has been questioned, but not wholly refuted, the Administrator has in each case promulgated a national primary standard which includes a margin of safety adequate to protect the public health from adverse effects suggested by the available data.

The national primary standard for carbon monoxide, proposed on January 30, 1971, was based on evidence that low levels of carboxyhemoglobin in human blood may be associated with impairment of ability to discriminate time intervals. This evidence is reflected in "Air Quality Criteria for Carbon Monoxide" (35 F.R. 4768). In the comments, serious questions were raised about the soundness of this evidence. Extensive consideration was given to this matter. The conclusions reached were that the evidence regarding impaired time-interval discrimination had not been refuted and that a less restrictive national standard for carbon monoxide would therefore not provide the margin of safety which may be needed to protect the health of persons especially sensitive to the effects of elevated carboxyhemoglobin levels. The only change made in the national standards for carbon monoxide was a modification of the 1-hour value. The revised standard affords protection from the same low levels of blood carboxyhemoglobin as a result of short-term exposure. The national standards for carbon monoxide, as set forth below, are intended to protect against the occurrence of carboxyhemoglobin levels above 2 percent. It is the Administrator's judgment that attainment of the national standards for carbon monoxide will provide an adequate safety margin for protection of public health and will protect against known and anticipated adverse effects on public welfare.

National standards for photochemical oxidants have also been revised. The revised national primary standard of 160 $\mu g./m.^3$ (0.08 p.p.m.) is based on evidence of increased frequency of asthma attacks in some asthmatic subjects on days when estimated hourly average concentrations of photochemical oxidant reached 200 $\mu g./m.^3$ (0.10 p.p.m.). A number of comments raised serious questions about the validity of data used to suggest impairment of athletic performance at lower oxidant concentrations. The revised primary standard includes a margin of safety which is substantially below the most likely threshold level suggested by this data. It is the Administrator's judgment that a primary standard of 160 $\mu g./m.^3$ (0.08 p.p.m.) as a 1-hour average will provide an adequate safety margin for protection of public health and will protect against known and anticipated adverse effects on public welfare.

National standards for hydrocarbons have been revised to make these standards consistent with the above modifications of the national standard for photochemical oxidants. Hydrocarbons are a precursor of photochemical oxidants. The sole purpose of prescribing a hydrocarbon standard is to control photochemical oxidants. Accordingly, the above-described revisions of the national standards for photochemical oxidants necessitated a corresponding revision of the hydrocarbon standards.

National standards for nitrogen dioxide have been revised to eliminate the proposed 24-hour average value. No adverse effects on public health or welfare have been associated with short-term exposure to nitrogen dioxide at levels which have been observed to occur in the ambient air. Attainment of the annual average will, in the Administrator's judgment, provide an adequate safety margin for protection of public health and will protect against known and anticipated adverse effects on public welfare.

Appendices A through F, which describe measurement methods, have been revised to clarify many technical points. As revised, each appendix describes a complete reference method for evaluating the ambient concentration of a pollutant for which national ambient air quality standards are being established.

Nine months after the date of publication of this notice, the States are required to submit to the Administrator, in accordance with section 110 of the Act, implementation plans for the attainment and maintenance of the national primary and secondary standards specified in this part. Requirements for the preparation, adoption, and submittal of implementation plans were published by the Administrator, as proposed rule-making, in the FEDERAL REGISTER on April 7, 1971 (36 F.R. 6680).

In consideration of the foregoing and in accordance with the statements in the notice of proposed rule-making, the national primary and secondary ambient air quality standards, Part 410, are hereby promulgated effective upon publication.

Dated: April 28, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

A new Part 410 is added to Chapter IV, Title 42, Code of Federal Regulations as follows:

Sec.

AUTHORITY: The provisions of this Part 410 issued under sec. 4, Public Law 91-604, Stat. 1679.

§ 410.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them by the Act.

(b) "Act" means the Clean Air Act, as amended (Public Law 91-604; 84 Stat. 1676).

(c) "Agency" means the Environmental Protection Agency.

(d) "Administrator" means the Administrator of the Environmental Protection Agency.

(e) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(f) "Reference method" means a method of sampling and analyzing for an air pollutant, as described in an appendix to this part.

(g) "Equivalent method" means any method of sampling and analyzing for an air pollutant which can be demonstrated to the Administrator's satisfaction to have a consistent relationship to the reference method.

§ 410.2 Scope.

(a) National primary and secondary ambient air quality standards under section 109 of the Act are set forth in this part.

(b) National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator deems necessary to protect the public health and welfare.

(c) The promulgation of national primary and secondary ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of any State.

(d) The proposal, promulgation, or revision of national primary and secondary ambient air quality standards shall not prohibit any State from establishing ambient air quality standards for that State or any portion thereof which are more stringent than the national standards.

§ 410.3 Reference conditions.

All measurements of air quality are corrected to a reference temperature of 25° C. and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars).

§ 410.4 National primary ambient air quality standards for sulfur oxides (sulfur dioxide).

The national primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide by the reference method described in Appendix A to this part, or by an equivalent method, are:

(a) 80 micrograms per cubic meter (0.03 p.p.m.)—annual arithmetic mean.

(b) 365 micrograms per cubic meter (0.14 p.p.m.)—Maximum 24-hour concentration not to be exceeded more than once per year.

§ 410.5 National secondary ambient air quality standards for sulfur oxides (sulfur dioxide).

The national secondary ambient air quality standards for sulfur oxides, measured as sulfur dioxide by the reference method described in Appendix A to this part, or by an equivalent method, are:

(a) 60 micrograms per cubic meter (0.02 p.p.m.)—annual arithmetic mean.

(b) 260 micrograms per cubic meter (0.1. p.p.m.)—maximum 24-hour concentration not to be exceeded more than once per year, as a guide to be used in assessing implementation plans to achieve the annual standard.

(c) 1,300 micrograms per cuibc meter (0.5 p.p.m.)—maximum 3-hour concentration not to be exceeded more than once per year.

§ 410.6 National primary ambient air quality standards for particulate matter.

The national primary ambient air quality standards for particulate matter, measured by the reference method described in Appendix B to this part, or by an equivalent method, are:

(a) 75 micrograms per cubic meter—annual geometric mean.

(b) 260 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

§ 410.7 National secondary ambient air quality standards for particulate matter.

The national secondary ambient air quality standards for particulate matter, measured by the reference method described in Appendix B to this part, or by an equivalent method, are:

(a) 60 micrograms per cubic meter—annual geometric mean, as a guide to be used in assessing implementation plans to achieve the 24-hour standard.

(b) 150 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

§ 410.8 National primary and secondary ambient air quality standards for carbon monoxide.

The national primary and secondary ambient air quality standards for carbon monoxide, measured by the reference method described in Appendix C to this part, or by an equivalent method, are:

(a) 10 milligrams per cubic meter (9 p.p.m.)—maximum 8-hour concentration not to be exceeded more than once per year.

(b) 40 milligrams per cubic meter (35 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

§ 410.9 National primary and secondary ambient air quality standards for photochemical oxidants.

The national primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide by the reference method described in Appendix D to this part, or by an equivalent method, is: 160 micrograms per cubic meter (0.08 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

§ 410.10 National primary and secondary ambient air quality standard for hydrocarbons.

The hydrocarbons standard is for use as a guide in devising implementation plans to achieve oxidant standards.

The national primary and secondary ambient air quality standard for hydrocarbons, measured and corrected for methane by the reference method described in Appendix E to this part, or by an equivalent method, is: 160 micrograms per cubic meter (0.24 p.p.m.)—maximum 3-hour concentration (6 to 9 a.m.) not to be exceeded more than once per year.

§ 410.11 National primary and secondary ambient air quality standard for nitrogen dioxide.

The national primary and secondary ambient air quality standard for nitrogen dioxide, measured by the reference method described in Appendix F to this part, or by an equivalent method, is: 100 micrograms per cubic meter (0.05 p.p.m.)—annual arithmetic mean.

APPENDIX A.—REFERENCE METHOD FOR THE DETERMINATION OF SULFUR DIOXIDE IN THE ATMOSPHERE (PARAROSANILINE METHOD)

1. *Principle and Applicability.* 1.1 Sulfur dioxide is absorbed from air in a solution of potassium tetrachloromercurate (TCM). A dichlorosulfitomercurate complex, which resists oxidation by the oxygen in the air, is formed (*1, 2*). Once formed, this complex is stable to strong oxidants (e.g., ozone, oxides of nitrogen). The complex is reacted with pararosaniline and formaldehyde to form intensely colored pararosaniline methyl sulfonic acid (*3*). The absorbance of the solution is measured spectrophotometrically.

1.2 The method is applicable to the measurement of sulfur dioxide in ambient air using sampling periods up to 24 hours.

2. *Range and Sensitivity.* 2.1 Concentrations of sulfur dioxide in the range of 25 to 1,050 $\mu g/m.^3$ (0.01 to 0.40 p.p.m.) can be measured under the conditions given. One can measure concentrations below 25 $\mu g./m.^3$ by sampling larger volumes of air, but only if the absorption efficiency of the particular system is first determined. Higher concentrations can be analyzed by using smaller gas samples, a larger collection volume, or a suitable aliquot of the collected sample. Beer's Law is followed through the working range from 0.03 to 1.0 absorbance units (0.8 to 27 $\mu g.$ of sulfite ion in 25 ml. final solution computed as SO_2).

2.2 The lower limit of detection of sulfur dioxide in 10 ml. TCM is 0.75 $\mu g_{.2}$ (based on twice the standard deviation) representing a concentration of 25 $\mu g./m^3 SO_2$ (0.01 p.p.m.) in an air sample of 30 liters.

3. *Interferences.* 3.1 The effects of the principal known interferences have been minimized or eliminated. Interferences by oxides of nitrogen are eliminated by sulfamic acid (*4, 5*), ozone by time-delay (*6*), and heavy metals by EDTA (ethylenediaminetetroacetic acid, disodium salt) and phosphoric acid (*4, 6,*). At least 60 $\mu g.$ Fe (III), 10 $\mu g.$ Mn(II), and 10 $\mu g.$ Cr(III) in 10 ml. absorbing reagent can be tolerated in the procedure. No significant interference was found with 10 $\mu g.$ CU (II) and 22 $\mu g.$ V(V).

4. *Precision, Accuracy, and Stability.* 4.1 Relative standard deviation at the 95 percent confidence level is 4.6 percent for the analytical procedure using standard samples. (*5*)

4.2 After sample collection the solutions are relatively stable. At 22° C. losses of sulfur dioxide occur at the rate of 1 percent per day. When samples are stored at 5° C. for 30 days, no detectable losses of sulfur dioxide occur. The presence of EDTA enhances the stability of SO_2 in solution, and the rate of decay is independent of the concentration of SO_2. (*7*)

5. *Apparatus.*

5.1 *Sampling.*

5.1.1 *Absorber.* Absorbers normally used in air pollution sampling are acceptable for concentrations above 25 $\mu g./m.^3$ (0.01 p.p.m.). An all-glass midget impinger, as shown in Figure A1, is recommended for 30-minute and 1-hour samples.

For 24-hour sampling, assemble an absorber from the following parts:

Polypropylene 2-port tube closures, special manufacture (available from Bel-Art Products, Pequannock, N.J.).

Glass impingers, 6 mm. tubing, 6 inches long, one end drawn to small diameter such that No. 79 jewelers will pass through, but No. 78 jewelers will not. (Other end fire polished.)

Polypropylene tubes, 164 by 32 mm. Nalgene or equal).

5.1.2 *Pump.* Capable of maintaining an air pressure differential greater than 0.7 atmosphere at the desired flow rate.

5.1.3 *Air Flowmeter or Critical Orifice.* A calibrated rotameter or critical orifice capable of measuring air flow within ±2 percent. For 30-minute sampling, a 22-gauge hypodermic needle 1 inch long may be used as a critical orifice to give a flow of about 1 liter/minute. For 1-hour sampling, a 23-gauge hypodermic needle five-eighths of an inch long may be used as a critical orifice to give a flow of about 0.5 liter/minute. For 24-hour sampling, a 27-gauge hypodermic needle three-eighths of an inch long may be used to give a flow of about 0.2 liter/minute. Use a membrane filter to protect the needle (Figure A1a).

6.2 *Analysis.*

5.2.1 *Spectrophotometer.* Suitable for measurement of absorbance at 548 nm. with an effective spectral band width of less than 15 nm. Reagent blank problems may occur with spectrophotometers having greater spectral band width. The wavelength calibration of the instrument should be verified. If transmittance is measured, this can be converted to absorbance:

$$A = \log_{10}(1/T)$$

6. *Reagents.*

6.1 *Sampling.*

6.1.1 *Distilled water.* Must be free from oxidants.

6.1.2 *Absorbing Reagent [0.04 M Potassium Tetrachloromercurate (TCM)].* Dissolve 10.86 g. mercuric chloride, 0.066 g. EDTA (thylenediaminetetraacetic acid, disodoum salt), and 6.0 g. potassium chloride in water and bring to mark in a 1,000-ml. volumetric flask. (Caution: highly poisonous. If spilled on skin, flush off with water immediately). The pH of this reagent should be approximately 4.0, but it has been shown that there is no appreciable difference in collection efficiency over the range of pH 5 to pH 3.(*7*) The absorbing reagent is normally stable for 6 months. If a precipitate forms, discard the reagent.

5.2 *Analysis.*

6.2.1 *Sulfamic Acid (0.6 percent).* Dissolve 0.6 g. sulfamic acid in 100 ml. distilled water. Prepare fresh daily.

6.2.2 *Formaldehyde (0.2 percent).* Dilute 5 ml. formaldehyde solution (36–38 percent) to 1,000 ml. with distilled water. Prepare daily.

6.2.3 *Stock Iodine Solution (0.1 N).* Place 12.7 g. iodine in a 250-ml. beaker; add 40 g. potassium iodide and 25 ml. water. Stir until all is dissolved, then dilute to 1,000 ml. with distilled water.

6.2.4 *Iodine Solution (0.01 N).* Prepare approximately 0.01 N iodine solution by diluting 50 ml. of stock solution to 500 ml. with distilled water.

6.2.5 *Starch Indicator Solution.* Triturate 0.4 g. soluble starch and 0.002 g. mercuric iodide (preservative) with a little water, and add the paste slowly to 200 ml. boiling water. Continue boiling until the solution is clear; cool, and transfer to a glass-stoppered bottle.

6.2.6 *Stock Sodium Thiosulfate Solution (0.1 N).* Prepare a stock solution by dissolving 25 g. sodium thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$) in 1,000 ml. freshly boiled, cooled, distilled water and add 0.1 g. sodium carbonate to the solution. Allow the solution to stand 1 day before standardizing. To standardize, accurately weigh, to the nearest 0.1 mg., 1.5 g. primary standard potassium iodate dried at 180° C. and dilute to volume in a 500-ml. volumetric flask. To a 500-ml. iodine flask, pipet 50 ml. of iodate solution. Add 2 g. potassium iodide and 10 ml. of 1 N hydrochloric acid. Stopper the flask. After 5 minutes, titrate with stock thiosulfate solution to a pale yellow. Add 5 ml. starch indicator solution and continue the titration until the blue color disappears. Calculate the normality of the stock solution:

$$N = \frac{W}{M} \times 2.80$$

N = Normality of stock thiosulfate solution.
M = Volume of thiosulfate required, ml.
W = Weight of potassium iodate, grams.

$$2.80 = \frac{10^3 (\text{conversion of g. to mg.}) \times 0.1 \text{ (fraction iodate used)}}{35.67 \text{ (equivalent weight of potassium iodate)}}$$

6.2.7 *Sodium Thiosulfate Titrant (0.01 N).* Dilute 100 ml. of the stock thiosulfate solution to 1,000 ml. with freshly boiled distilled water.

Normality = Normality of stock solution × 0.100.

6.2.8 *Standardize Sulfite Solution for Preparation of Working Sulfite-TCM Solution.* Dissolve 0.3 g. sodium metabisulfite ($Na_2S_2O_5$) or 0.40 g. sodium sulfite (Na_2SO_3) in 500 ml. of recently boiled, cooled, distilled water. (Sulfite solution is unstable; it is therefore important to use water of the highest purity to minimize this instability.) This solution contains the equivalent of 320 to 400 $\mu g./ml.$ of SO_2. The actual concentration of the solution is determined by adding excess iodine and back-titrating with standard sodium thiosulfate solution. To back-titrate, pipet 50 ml. of the 0.01 N iodine into each of two 500-ml. iodine flasks (A and B). To flask A (blank) add 25 ml. distilled water, and to flask B (sample) pipet 25 ml. sulfite solution. Stopper the flasks and allow to react for 5 minutes. Prepare the working sulfite-TCM Solution (6.2.9) at the same time iodine solution is added to the flasks. By means of a buret containing standardized 0.01 N thiosulfate, titrate each flask in turn to a pale yellow. Then add 5 ml. starch solution and continue the titration until the blue color disappears.

6.2.9 *Working Sulfite-TCM Solution.* Pipet accurately 2 ml. of the standard solution into a 100 ml volumetric flask and bring to mark with 0.04 M TCM. Calculate the concentration of sulfur dioxide in the working solution:

$$\mu g\ SO_2/ml. = \frac{(A - B)\ (N)\ (32{,}000)}{25} 25 \times 0.02$$

A = Volume thiosulfate for blank, ml.
B = Volume thiosulfate for sample, ml.
N = Normality of thiosulfate titrant.
32,000 = Milliequivalent wt. of SO_2, $\mu g.$
25 = Volume standard sulfite solution, ml.
0.02 = Dilution factor.

This solution is stable for 30 days if kept at 5° C. (refrigerator). If not kept at 5° C., prepare daily.

6.2.10 *Purified Pararosaniline Stock Solution (0.2 percent nominal).*

6.2.10.1 *Dye Specifications.* The pararosaniline dye must meet the following performance specifications: (1) the dye must have a wavelength of maximum absorbance at 540 nm. when assayed in a buffered solution of 0.1 M sodium acetate-acetic acid; (2) the absorbance of the reagent blank, which is temperature-sensitive (0.015 absorbance unit/°C), should not exceed 0.170 absorbance unit at 22° C. with a 1-cm. optical path length, when the blank is prepared according to the prescribed analytical procedure and to the specified concentration of the dye; (3) the calibration curve (Section 8.2.1) should have a slope of 0.030±0.002 absorbance units/$\mu g.$ SO_2 at this path length when the dye is pure and the sulfite solution is properly standardized.

6.2.10.2 *Preparation of Stock Solution.* A specially purified (99–100 percent pure) solution of pararosaniline, which meets the above specifications, is commercially available in the required 0.20 percent concentration (Harleco*). Alternatively, the dye may be purified, a stock solution prepared and then assayed according to the procedure of Scaringelli, et al. (*4*)

6.2.11 *Pararosaniline Reagent.* To a 250-ml. volumetric flask, add 20 ml. stock pararosaniline solution. Add an additional 0.2 ml. stock solution for each percent the stock

*Hartmen-Leddon, 60th and Woodland Avenue, Philadelphia, PA 19143.

assays below 100 percent. Then add 25 ml. 3 M phosphoric acid and dilute to volume with distilled water. This reagent is stable for at least 9 months.

7. *Procedure.*

7.1 *Sampling.* Procedures are described for short-term (30 minutes and 1 hour) and for long-term (24 hours) sampling. One can select different combinations of sampling rate and time to meet special needs. Sample volumes should be adjusted, so that linearity is maintained between absorbance and concentration over the dynamic range.

7.1.1 *30-Minute and 1-Hour Samplings.* Insert a midget impinger into the sampling system, Figure A1. Add 10 ml. TCM solution to the impinger. Collect sample at 1 liter/minute for 30 minutes, or at 0.5 liter/minute for 1 hour, using either a rotameter, as shown in Figure A1, or a critical orifice, as shown in Figure A1a, to control flow. Shield the absorbing reagent from direct sunlight during and after sampling by covering the impinger with aluminum foil, to prevent deterioration. Determine the volume of air sampled by multiplying the flow rate by the time in minutes and record the atmospheric pressure and temperature. Remove and stopper the impinger. If the sample must be stored for more than a day before analysis, keep it at 5° C. in a refrigerator (see 4.2).

7.1.2 *24-Hour Sampling.* Place 50 ml. TCM solution in a large absorber and collect the sample at 0.2 liter/minute for 24 hours from midnight to midnight. Make sure no entrainment of solution results with the impinger. During collection and storage protect from direct sunlight. Determine the total air volume by multiplying the air flow rate by the time in minutes. The correction of 24-hour measurements for temperature and pressure is extremely difficult and is not ordinarily done. However, the accuracy of the measurement will be improved if meaningful corrections can be applied. If storage is necessary, refrigerate at 5° C. (see 4.2).

7.2 *Analysis.*

7.2.1 *Sample Preparation.* After collection, if a precipitate is observed in the sample, remove it by centrifugation.

7.2.1.1 *30-Minute and 1-Hour Samples.* Transfer the sample quantitatively to a 25-ml. volumetric flask; use about 5 ml. distilled water for rinsing. Delay analyses for 20 minutes to allow any ozone to decompose.

7.2.1.2 *24-Hour Sample.* Dilute the entire sample to 50 ml. with absorbing solution. Pipet 5 ml. of the sample into a 25-ml. volumetric flask for chemical analyses. Bring volume to 10 ml. with absorbing reagent. Delay analyses for 20 minutes to allow any ozone to decompose.

7.2.2 *Determination.* For each set of determinations prepare a reagent blank by adding 10 ml. unexposed TCM solution to a 25-ml. volumetric flask. Prepare a control solution by adding 2 ml. of working sulfite-TCM solution and 8 ml. TCM solution to a 25-ml. volumetric flask. To each flask containing either sample, control solution, or reagent blank, add 1 ml. 0.6 percent sulfamic acid and allow to react 10 minutes to destroy the nitrite from oxides of nitrogen. Accurately pipet in 2 ml. 0.2 percent formaldehyde solution, then 5 ml. pararosaniline solution. Start a laboratory timer that has been set for 30 minutes. Bring all flasks to volume with freshly boiled and cooled distilled water and mix thoroughly. After 30 minutes and before 60 minutes, determine the absorbances of the sample (denote as A), reagent blank (denote as A_o) and the control solution at 548 nm. using 1-cm. optical path length cells. Use distilled water, not the reagent blank, as the reference. (NOTE! This is important because of the color sensitivity of the reagent blank to temperature changes which can be induced in the cell compartment of a spectrophotometer.) Do not allow the colored solution to stand in the absorbance cells, because a film of dye may be deposited. Clean cells with alcohol after use. If the temperature of the determinations does not differ by more than 2° C. from the calibration temperature (8.2), the reagent blank should be within 0.03 absorbance unit of the y-intercept of the calibration curve (8.2). If the reagent blank differs by more than 0.03 absorbance unit from that found in the calibration curve, prepare a new curve.

7.2.3 *Absorbance Range.* If the absorbance of the sample solution ranges between 1.0 and 2.0, the sample can be diluted 1:1 with a portion of the reagent blank and read within a few minutes. Solutions with higher absorbance can be diluted up to sixfold with the reagent blank in order to obtain onscale readings within 10 percent of the true absorbance value.

8. *Calibration and Efficiencies.*

8.1 *Flowmeters and Hypodermic Needle.* Calibrate flowmeters and hypodermic needle (*8*) against a calibrated wet test meter.

8.2 *Calibration Curves.*

8.2.1 *Procedure with Sulfite Solution.* Accurately pipet graduated amounts of the working sulfite-TCM solution (6.2.9) (such as 0, 0.5, 1, 2, 3, and 4 ml.) into a series of 25-ml. volumetric flasks. Add sufficient TCM solution to each flask to bring the volume to approximately 10 ml. Then add the remaining reagents as described in 7.2.2. For maximum precision use a constant-temperature bath. The temperature of calibration must be maintained within ±1° C. and in the range of 20° to 30° C. The temperature of calibration and the temperature of analysis must be within 2 degrees. Plot the absorbance against the total concentration in μg. SO_2 for the corresponding solution. The total μg. SO_2 in solution equals the concentration of the standard (Section 6.2.9) in μg. SO_2/ml. times the ml. sulfite solution added (μg. SO_2= μg./ml. SO_2×ml. added). A linear relationship should be obtained, and the y-intercept should be within 0.03 absorbance unit of the zero standard absorbance. For maximum precision determine the line of best fit using regression analysis by the method of least squares. Determine the slope of the line of best fit, calculate its reciprocal and denote as B_s. B_s is the calibration factor. (See Section 6.2.10.1 for specifications on the slope of the calibration curve). This calibration factor can be used for calculating results provided there are no radical changes in temperature or pH. At least one control sample containing a known concentration of SO_2 for each series of determinations, is recommended to insure the reliability of this factor.

8.2.2 *Procedure with SO_2 Permeation Tubes.*

8.2.2.1 *General Considerations.* Atmospheres containing accurately known amounts of sulfur dioxide at levels of interest can be prepared using permeation tubes. In the systems for generating these atmospheres, the permeation tube emits SO_2 gas at a known, low, constant rate, provided the temperature of the tube is held constant (±0.1° C.) and provided the tube has been accurately calibrated at the temperature of use. The SO_2 gas permeating from the tube is carried by a low flow of inert gas to a mixing chamber where it is accurately diluted with SO_2-free air to the level of interest and the sample taken. These systems are shown schematically in Figures A2 and A3 and have been described in detail by O'Keeffe and Ortman (*9*), Scaringelli, Frey, and Saltzman (*10*), and Scaringelli, O'Keeffe, Rosenberg, and Bell (*11*).

8.2.2.2 *Preparation of Standard Atmospheres.* Permeation tubes may be prepared or purchased. Scaringelli, O'Keeffe, Rosenberg, and Bell (*11*) give detailed, explicit directions for permeation tube calibration. Tubes with a certified permeation rate are available from the National Bureau of Standards. Tube permeation rates from 0.2 to 0.4 μg./minute inert gas flows of about 50 ml./minute and dilution air flow rates from 1.1 to 15 liters/minutes conveniently give standard atmospheres containing desired levels of SO_2 (25 to 390 μg./m.³; 0.01 to 0.15 p.p.m. SO_2). The concentration of SO_2 in any standard atmosphere can be calculated as follows:

$$C=\frac{P\times 10^3}{R_d+R_I}$$

Where:

C = Concentration of SO_2, μg./m.³ at reference conditions.
P = Tube permeation rate, μg./minute.
R_d = Flow rate of dilution air, liter/minute at reference conditions.
R_I = Flow rate of inert gas, liter/minute at reference conditions.

8.2.2.3 *Sampling and Preparation of Calibration Curve.* Prepare a series (usually six) of standard atmospheres containing SO_2 levels from 25 to 390 μg. SO_2/m.³. Sample each atmosphere using similar apparatus and taking exactly the same air volume as will be done in atmospheric sampling. Determine absorbances as directed in 7.2. Plot the concentration of SO_2 in μg./m.³ (x-axis) against $A-A_0$ values (y-axis), draw the straight line of best fit and determine the slope. Alternatively, regression analysis by the method of least squares may be used to calculate the slope. Calculate the reciprocal of the slope and denote as B_g.

8.3 *Sampling Efficiency.* Collection efficiency is above 98 percent; efficiency may fall off, however, at concentrations below 25 μg./m.³. (*12, 13*)

9. *Calculations.*

9.1 *Conversion of Volume.* Convert the volume of air sampled to the volume at reference conditions of 25° C. and 760 mm. Hg. (On 24-hour samples, this may not be possible.)

$$V_R=V\times\frac{P}{760}\times\frac{298}{t+273}$$

V_R = Volume of air at 25° C. and 760 mm. Hg, liters.
V = Volume of air sampled, liters.
P = Barometric pressure, mm. Hg.
t = Temperature of air sample, °C.

9.2 *Sulfur Dioxide Concentration.*

9.2.1 When sulfite solutions are used to prepare calibration curves, compute the concentration of sulfur dioxide in the sample:

$$\mu g.\ SO_2/m.^3=\frac{(A-A_o)\ (10^3)\ (B_s)}{V_R}\times D$$

A = Sample absorbance.
A_o = Reagent blank absorbance.
10^3 = Conversion of liters to cubic meters.
V_R = The sample corrected to 25° C. and 760 mm. Hg, liters.
B_s = Calibration factor, μg./absorbance unit.
D = Dilution factor.
For 30-minute and 1-hour samples, D=1.
For 24-hour samples, D=10.

9.2.2 When SO_2 gas standard atmospheres are used to prepare calibration curves, compute the sulfur dioxide in the sample by the following formula:

$$SO_2,\ \mu g./m.^3=(A-A_o)\times B_g$$

A = Sample absorbance.
A_o = Reagent blank absorbance.
B_g = (See 8.2.2.3).

9.2.3 *Conversion of μg./m.³ to p.p.m.* = If desired, the concentration of sulfur dioxide

may be calculated as p.p.m. SO_2 at reference conditions as follows:

$$\text{p.p.m. } SO_2 = \mu\text{g. } SO_2/\text{m.}^3 \times 3.82 \times 10^{-4}$$

10. *References.*

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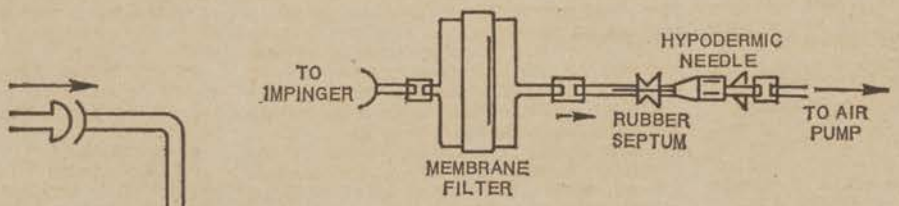

Figure A1a. Critical orifice flow control.

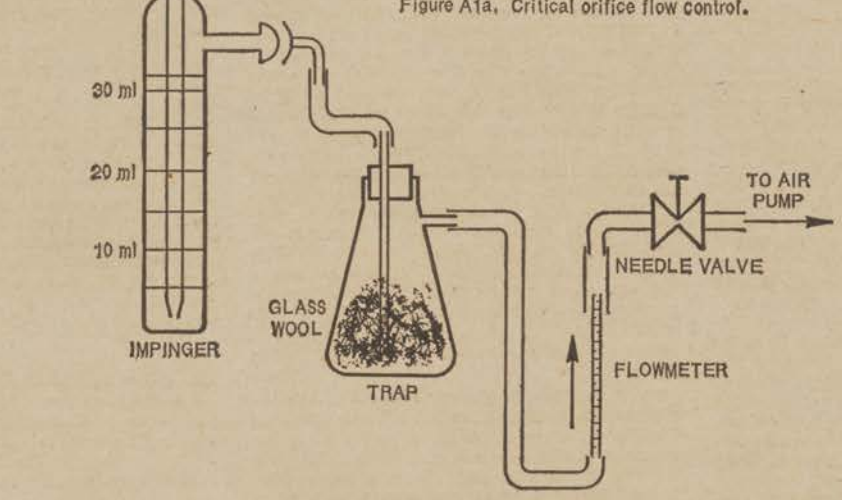

Figure A1. Sampling train.

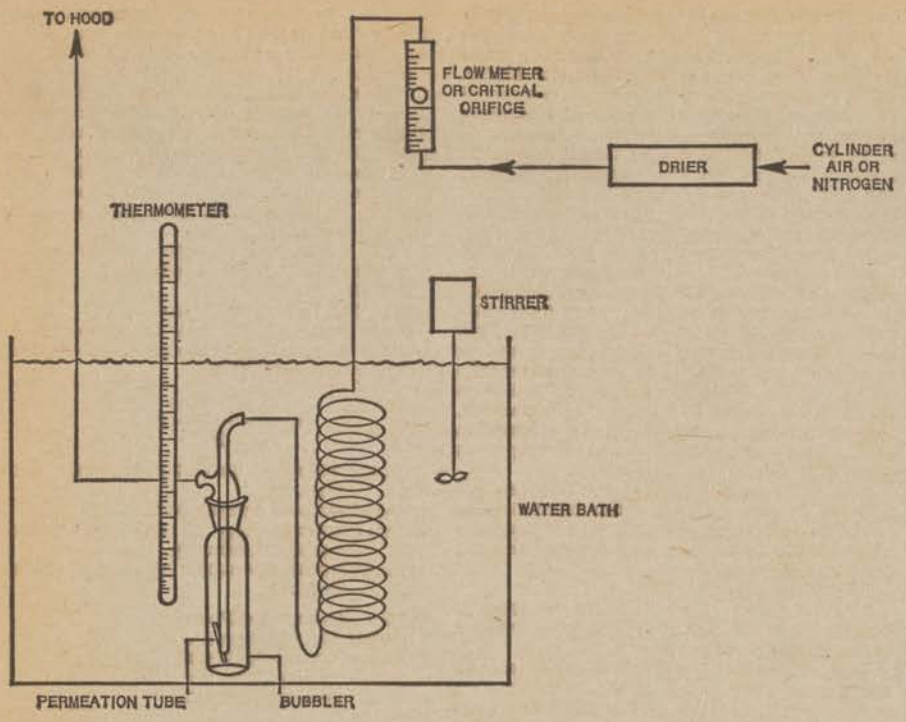

Figure A2. Apparatus for gravimetric calibration and field use.

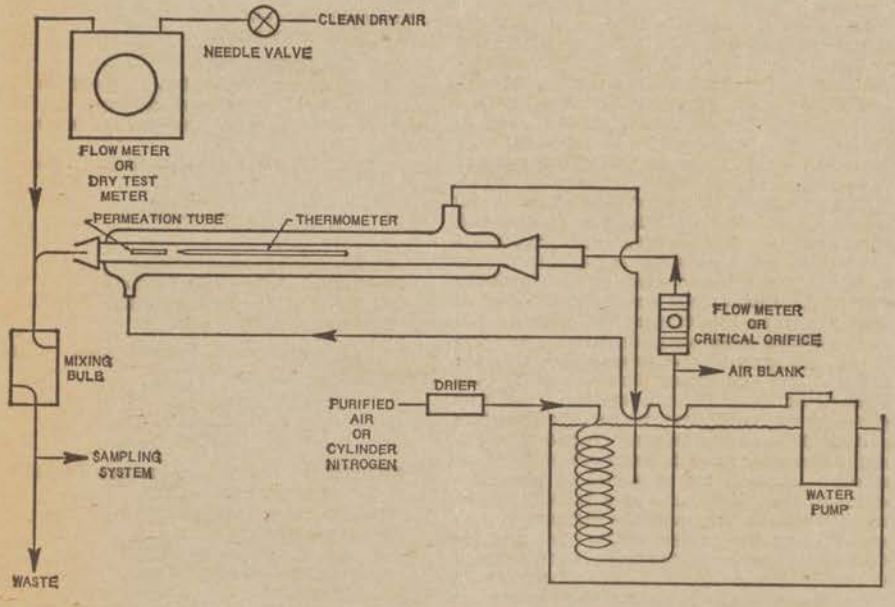

Figure A3. Permeation tube schematic for laboratory use.

APPENDIX B—REFERENCE METHOD FOR THE DETERMINATION OF SUSPENDED PARTICULATES IN THE ATMOSPHERE (HIGH VOLUME METHOD)

1. *Principle and Applicability.*

1.1 Air is drawn into a covered housing and through a filter by means of a high-flow-rate blower at a flow rate (1.13 to 1.70 m.³/min.; 40 to 60 ft.³/min.) that allows suspended particles having diameters of less than 100 μm. (Stokes equivalent diameter) to pass to the filter surface. (*1*) Particles within the size range of 100 to 0.1μm. diameter are ordinarily collected on glass fiber filters. The mass concentration of suspended particulates in the ambient air (μg./m.³) is computed by measuring the mass of collected particulates and the volume of air sampled.

1.2 This method is applicable to measurement of the mass concentration of suspended particulates in ambient air. The size of the sample collected is usually adequate for other analyses.

2. *Range and Sensitivity.*

2.1 When the sampler is operated at an average flow rate of 1.70 m.³/min. (60 ft.³/min.) for 24 hours, an adequate sample will be obtained even in an atmosphere having concentrations of suspended particulates as low as 1 μg./m.³. If particulate levels are unusually high, a satisfactory sample may be obtained in 6 to 8 hours or less. For determination of average concentrations of suspended particulates in ambient air, a standard sampling period of 24 hours is recommended.

2.2 Weights are determined to the nearest milligram, airflow rates are determined to the nearest 0.03 m.³/min. (1.0 ft.³/min.), times are determined to the nearest 2 minutes, and mass concentrations are reported to the nearest microgram per cubic meter.

3. *Interferences.*

3.1 Particulate matter that is oily, such as photochemical smog or wood smoke, may block the filter and cause a rapid drop in airflow at a nonuniform rate. Dense fog or high humidity can cause the filter to become too wet and severely reduce the airflow through the filter.

3.2 Glass-fiber filters are comparatively insensitive to changes in relative humidity, but collected particulates can be hygroscopic. (*2*)

4. *Precision, Accuracy, and Stability.*

4.1 Based upon collaborative testing, the relative standard deviation (coefficient of variation) for single analyst variation (repeatability of the method) is 3.0 percent. The corresponding value for multilaboratory variation (reproducibility of the method) is 3.7 percent. (*3*)

4.2 The accuracy with which the sampler measures the true average concentration depends upon the constancy of the airflow rate through the sampler. The airflow rate is affected by the concentration and the nature of the dust in the atmosphere. Under these conditions the error in the measured average concentration may be in excess of ±50 percent of the true average concentration, depending on the amount of reduction of airflow rate and on the variation of the mass concentration of dust with time during the 24-hour sampling period. (*4*)

5. *Apparatus.*

5.1 *Sampling.*

5.1.1 *Sampler.* The sampler consists of three units: (1) the faceplate and gasket, (2) the filter adapter assembly, and (3) the motor unit. Figure B1 shows an exploded view of these parts, their relationship to each other, and how they are assembled. The sampler must be capable of passing environmental air through a 406.5 cm.² (63 in.²) portion of a clean 20.3 by 25.4 cm. (8- by 10-in.) glass-fiber filter at a rate of at least 1.70 m.³/min. (60 ft.³/min.). The motor must be capable of continuous operation for 24-hour periods with input voltages ranging from 110 to 120 volts, 50–60 cycles alternating current and must have third-wire safety ground. The housing for the motor unit may be of any convenient construction so long as the unit remains airtight and leak-free. The life of the sampler motor can be extended by lowering the voltage by about 10 percent with a small "buck or boost" transformer between the sampler and power outlet.

5.1.2 *Sampler Shelter.* It is important that the sampler be properly installed in a suitable shelter. The shelter is subjected to extremes of temperature, humidity, and all types of air pollutants. For these reasons the materials of the shelter must be chosen carefully. Properly painted exterior plywood or heavy gauge aluminum serve well. The sampler must be mounted vertically in the shelter so that the glass-fiber filter is parallel with the ground. The shelter must be provided with a roof so that the filter is protected from precipitation and debris. The internal arrangement and configuration of a suitable shelter with a gable roof are shown in Figure B2. The clearance area between the main housing and the roof at its closest point should be 580.5±193.5 cm.² (90±30 in.²). The main housing should be rectangular, with dimensions of about 29 by 36 cm. (11½ by 14 in.).

5.1.3 *Rotameter.* Marked in arbitrary units, frequently 0 to 70, and capable of being calibrated. Other devices of at least comparable accuracy may be used.

5.1.4 *Orifice Calibration Unit.* Consisting of a metal tube 7.6 cm. (3 in.) ID and 15.9 cm. (6¼ in.) long with a static pressure tap 5.1 cm. (2 in.) from one end. See Figure B3. The tube end nearest the pressure tap is flanged to about 10.8 cm. (4¼ in.) OD with a male thread of the same size as the inlet end of the high-volume air sampler. A single metal plate 9.2 cm. (3⅝ in.) in diameter and 0.24 cm. (3/32 in.) thick with a central orifice 2.9 cm. (1⅛ in.) in diameter is held in place at the air inlet end with a female threaded ring. The other end of the tube is flanged to hold a loose female threaded coupling, which screws onto the inlet of the sampler. An 18-hole metal plate, an integral part of the unit, is positioned between the orifice and sampler to simulate the resistance of a clean glass-fiber filter. An orifice calibration unit is shown in Figure B3.

5.1.5 *Differential Manometer.* Capable of measuring to at least 40 cm. (16 in.) of water.

5.1.6 *Positive Displacement Meter.* Calibrated in cubic meters or cubic feet, to be used as a primary standard.

5.1.7 *Barometer.* Capable of measuring atmospheric pressure to the nearest mm.

5.2 *Analysis.*

5.2.1 *Filter Conditioning Environment.* Balance room or desiccator maintained at 15° to 35°C. and less than 50 percent relative humidity.

5.2.2 *Analytical Balance.* Equipped with a weighing chamber designed to handle unfolded 20.3 by 25.4 cm. (8- by 10-in.) filters and having a sensitivity of 0.1 mg.

5.2.3 *Light Source.* Frequently a table of the type used to view X-ray films.

5.2.4 *Numbering Device.* Capable of printing identification numbers on the filters.

6. *Reagents.*

6.1 *Filter Media.* Glass-fiber filters having a collection efficiency of at least 99 percent for particles of 0.3 μm. diameter, as measured by the DOP test, are suitable for the quantitative measurement of concentrations of suspended particulates, (5) although some other medium, such as paper, may be desirable for some analyses. If a more detailed analysis is contemplated, care must be exercised to use filters that contain low background concentrations of the pollutant being investigated. Careful quality control is required to determine background values of these pollutants.

7. *Procedure.*

7.1 *Sampling.*

7.1.1 *Filter Preparation.* Expose each filter to the light source and inspect for pinholes, particles, or other imperfections. Filters with visible imperfections should not be used. A small brush is useful for removing particles. Equilibrate the filters in the filter conditioning environment for 24 hours. Weigh the filters to the nearest milligram; record tare weight and filter identification number. Do not bend or fold the filter before collection of the sample.

7.1.2 *Sample Collection.* Open the shelter, loosen the wing nuts, and remove the faceplate from the filter holder. Install a numbered, preweighed, glass-fiber filter in position (rough side up), replace the faceplate without disturbing the filter, and fasten securely. Undertightening will allow air leakage, overtightening will damage the sponge-rubber faceplate gasket. A very light application of talcum powder may be used on the sponge-rubber faceplate gasket to prevent the filter from sticking. During inclement weather the sampler may be removed to a protected area for filter change. Close the roof of the shelter, run the sampler for about 5 minutes, connect the rotameter to the nipple on the back of the sampler, and read the rotameter ball with rotameter in a vertical position. Estimate to the nearest whole number. If the ball is fluctuating rapidly, tip the rotameter and slowly straighten it until the ball gives a constant reading. Disconnect the rotameter from the nipple; record the initial rotameter reading and the starting time and date on the filter folder. (The rotameter should never be connected to the sampler except when the flow is being measured.) Sample for 24 hours from midnight to midnight and take a final rotameter reading. Record the final rotameter reading and ending time and date on the filter folder. Remove the faceplate as described above and carefully remove the filter from the holder, touching only the outer edges. Fold the filter lengthwise so that only surfaces with collected particulates are in contact, and place in a manila folder. Record on the folder the filter number, location, and any other factors, such as meteorological conditions or razing of nearby buildings, that might affect the results. If the sample is defective, void it at this time. In order to obtain a valid sample, the high-volume sampler must be operated with the same rotameter and tubing that were used during its calibration.

7.2 *Analysis.* Equilibrate the exposed filters for 24 hours in the filter conditioning environment, then reweigh. After they are weighed, the filters may be saved for detailed chemical analysis.

7.3 *Maintenance.*

7.3.1 *Sampler Motor.* Replace brushes before they are worn to the point where motor damage can occur.

7.3.2 *Faceplate Gasket.* Replace when the margins of samples are no longer sharp. The gasket may be sealed to the faceplate with rubber cement or double-sided adhesive tape.

7.3.3 *Rotameter.* Clean as required, using alcohol.

8. *Calibration.*

8.1 *Purpose.* Since only a small portion of the total air sampled passes through the rotameter during measurement, the rotameter must be calibrated against actual airflow with the orifice calibration unit. Before the orifice calibration unit can be used to calibrate the rotameter, the orifice calibration unit itself must be calibrated against the positive displacement primary standard.

8.1.1 *Orifice Calibration Unit.* Attach the orifice calibration unit to the intake end of the positive displacement primary standard and attach a high-volume motor blower unit to the exhaust end of the primary standard. Connect one end of a differential manometer to the differential pressure tap of the orifice calibration unit and leave the other end open to the atmosphere. Operate the high-volume motor blower unit so that a series of different, but constant, airflows (usually six) are obtained for definite time periods. Record the reading on the differential manometer at each airflow. The different constant airflows are obtained by placing a series of loadplates, one at a time, between the calibration unit and the primary standard. Placing the orifice before the inlet reduces the pressure at the inlet of the primary standard below atmospheric; therefore, a correction must be made for the increase in volume caused by this decreased inlet pressure. Attach one end of a second differential manometer to an inlet pressure tap of the primary standard and leave the other open to the atmosphere. During each of the constant airflow measurements made above, measure the true inlet pressure of the primary standard with this second differential manometer. Measure atmospheric pressure and temperature. Correct the measured air volume to true air volume as directed in 9.1.1, then obtain true airflow rate, Q, as directed in 9.1.3. Plot the differential manometer readings of the orifice unit versus Q.

8.1.2 *High-Volume Sampler.* Assemble a high-volume sampler with a clean filter in place and run for at least 5 minutes. Attach a rotameter, read the ball, adjust so that the ball reads 65, and seal the adjusting mechanism so that it cannot be changed easily. Shut off motor, remove the filter, and attach the orifice calibration unit in its place. Operate the high-volume sampler at a series of different, but constant, airflows (usually six). Record the reading of the differential manometer on the orifice calibration unit, and record the readings of the rotameter at each flow. Measure atmospheric pressure and temperature. Convert the differential manometer reading to m.³/min., Q, then plot rotameter reading versus Q.

8.1.3 *Correction for Differences in Pressure or Temperature.* See Addendum B.

9. *Calculations.*

9.1 *Calibration of Orifice.*

9.1.1 *True Air Volume.* Calculate the air volume measured by the positive displacement primary standard.

$$V_a = \frac{(P_a - P_m)}{P_a}(V_M)$$

V_a = True air volume at atmospheric pressure, m.³

P_a = Barometric pressure, mm. Hg.

P_m = Pressure drop at inlet of primary standard, mm. Hg.

V_M = Volume measured by primary standard, m.³

9.1.2 *Conversion Factors.*

Inches Hg. × 25.4 = mm. Hg.

Inches water × 73.48 × 10^{-3} = inches Hg.

Cubic feet air × 0.0284 = cubic meters air.

9.1.3 *True Airflow Rate.*

$$Q = \frac{V_a}{T}$$

Q = Flow rate, m.³/min.

T = Time of flow, min.

9.2 *Sample Volume.*

9.2.1 *Volume Conversion.* Convert the initial and final rotameter readings to true airflow rate, Q, using calibration curve of 8.1.2.

9.2.2 *Calculate volume of air sampled*

$$V = \frac{Q_i Q_f}{2} \times T$$

V = Air volume sampled, m.³

Q_i = Initial airflow rate, m.³/min.

Q_f = Final airflow rate, m.³/min.

T = Sampling time, min.

9.3 *Calculate mass concentration of suspended particulates*

$$S.P. = \frac{(W_f - W_i) \times 10^6}{V}$$

S.P. = Mass concentration of suspended particulates, μg/m.³

W_i = Initial weight of filter, g.

W_f = Final weight of filter, g.

V = Air volume sampled, m.³

10^6 = Conversion of g. to μg.

10. *References.*

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ADDENDA

A. *Alternative Equipment.*

A modification of the high-volume sampler incorporating a method for recording the actual airflow over the entire sampling period has been described, and is acceptable for measuring the concentration of suspended particulates (Henderson, J. S., Eighth Conference on Methods in Air Pollution and Industrial Hygiene Studies, 1967, Oakland, Calif.). This modification consists of an exhaust orifice meter assembly connected through a transducer to a system for continuously recording airflow on a circular chart. The volume of air sampled is calculated by the following equation:

$$V = Q \times T.$$

Q = Average sampling rate, m.³/min.
T = Sampling time, minutes.

The average sampling rate, Q, is determined from the recorder chart by estimation if the flow rate does not vary more than 0.11 m.³/min. (4 ft.³/min.) during the sampling period. If the flow rate does vary more than 0.11 m.³ (4 ft.³/min.) during the sampling period, read the flow rate from the chart at 2-hour intervals and take the average.

B. *Pressure and Temperature Corrections.*

If the pressure or temperature during high-volume sampler calibration is substantially different from the pressure or temperature during orifice calibration, a correction of the flow rate, Q, may be required. If the pressures differ by no more than 15 percent and the temperatures differ by no more than 100 percent (°C), the error in the uncorrected flow rate will be no more than 15 percent. If necessary, obtain the corrected flow rate as directed below. This correction applies only to orifice meters having a constant orifice coefficient. The coefficient for the calibrating orifice described in 5.1.4 has been shown experimentally to be constant over the normal operating range of the high-volume sampler (0.6 to 2.2 m.³/min.; 20 to 78 ft.³/min.). Calculate corrected flow rate:

$$Q_2 = Q_1 \left[\frac{T_2 P_1}{T_1 P_2}\right]^{1/2}$$

Q_2 = Corrected flow rate, m.³/min.
Q_1 = Flow rate during high-volume sampler calibration (Section 8.1.2), m.³/min.
T_1 = Absolute temperature during orifice unit calibration (Section 8.1.1), °K or °R.
P_1 = Barometric pressure during orifice unit calibration (Section 8.1.1), mm. Hg.
T_2 = Absolute temperature during high-volume sampler calibration (Section 8.1.2), °K or °R.
P_2 = Barometric pressure during high-volume sampler calibration (Section 8.1.2), mm. Hg.

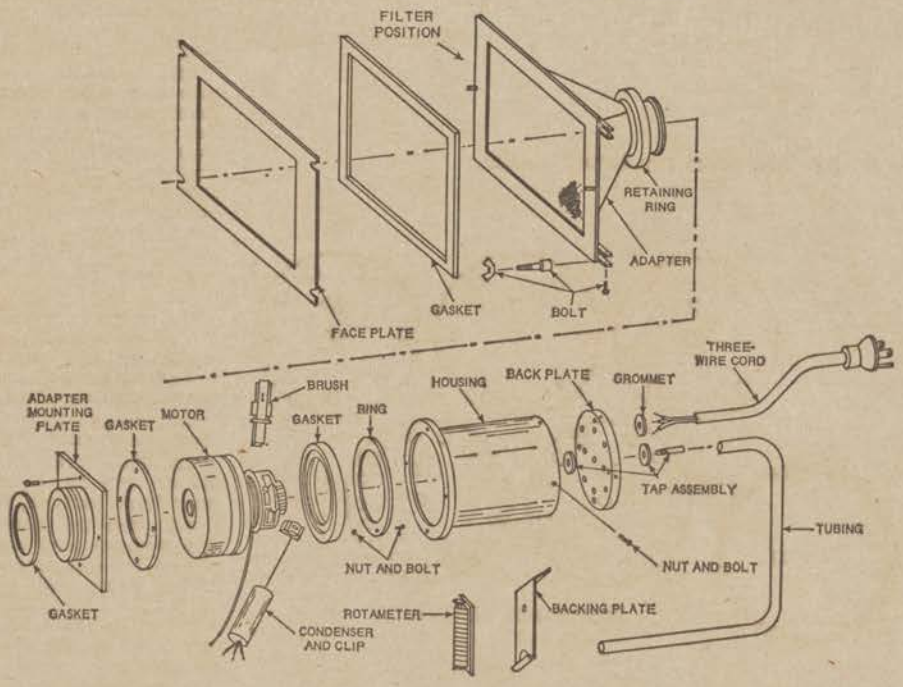

Figure B1. Exploded view of typical high-volume air sampler parts.

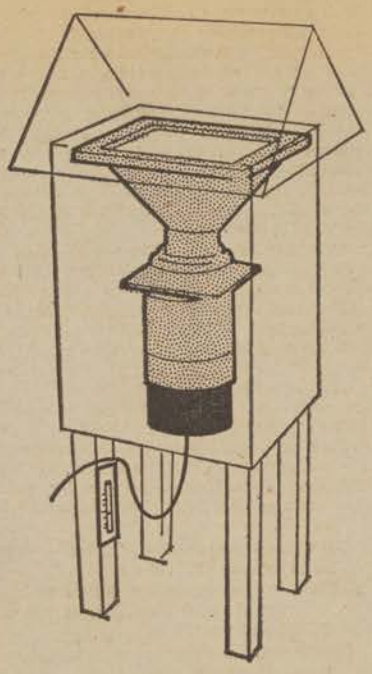

Figure B2. Assembled sampler and shelter.

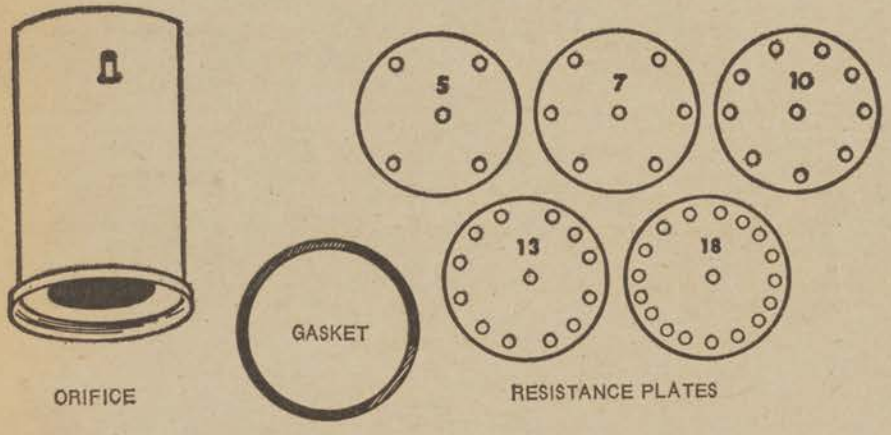

Figure B3. Orifice calibration unit.

APPENDIX C—REFERENCE METHOD FOR THE CONTINUOUS MEASUREMENT OF CARBON MONOXIDE IN THE ATMOSPHERE (NON-DISPERSIVE INFRARED SPECTROMETRY)

1. *Principle and Applicability.*

1.1 This method is based on the absorption of infrared radiation by carbon monoxide. Energy from a source emitting radiation in the infrared region is split into parallel beams and directed through reference and sample cells. Both beams pass into matched cells, each containing a selective detector and CO. The CO in the cells absorb infrared radiation only at its characteristic frequencies and the detector is sensitive to those frequencies. With a nonabsorbing gas in the reference cell, and with no CO in the sample cell, the signals from both detectors are balanced electronically. Any CO introduced into the sample cell will absorb radiation, which reduces the temperature and pressure in the detector cell and displaces a diaphram. This displacement is detected electronically and amplified to provide an output signal.

1.2 This method is applicable to the determination of carbon monoxide in ambient air, and to the analysis of gases under pressure.

2. *Range and Sensitivity.*

2.1 Instruments are available that measure in the range of 0 to 58 mg./m.³ (0–50 p.p.m.), which is the range most commonly used for urban atmospheric sampling. Most instruments measure in additional ranges.

2.2 Sensitivity is 1 percent of full-scale response per 0.6 mg. CO/m.³ (0.5 p.p.m.).

3. *Interferences.*

3.1 Interferences vary between individual instruments. The effect of carbon dioxide interference at normal concentrations is minimal. The primary interference is water vapor, and with no correction may give an interference equivalent to as high as 12 mg. CO/m.³ Water vapor interference can be minimized by (a) passing the air sample through silica gel or similar drying agents, (b) maintaining constant humidity in the sample and calibration gases by refrigeration, (c) saturating the air sample and calibration gases to maintain constant humidity or (d) using narrowband optical filters in combination with some of these measures.

3.2 Hydrocarbons at ambient levels do not ordinarily interfere.

4. *Precision, Accuracy, and Stability.*

4.1 Precision determined with calibration gases is ±0.5 percent full scale in the 0–58 mg./m.³ range.

4.2 Accuracy depends on instrument linearity and the absolute concentrations of the calibration gases. An accuracy of ±1 percent of full scale in the 0–58 mg./m.³ range can be obtained.

4.3 Variations in ambient room temperature can cause changes equivalent to as much as 0.5 mg. CO/m.³ per °C. This effect can be minimized by operating the analyzer in a temperature-controlled room. Pressure changes between span checks will cause changes in instrument response. Zero drift is usually less than ±1 percent of full scale per 24 hours, if cell temperature and pressure are maintained constant.

5. *Apparatus.*

5.1 *Carbon Monoxide Analyzer.* Commercially available instruments should be installed on location and demonstrated, preferably by the manufacturer, to meet or exceed manufacturers specifications and those described in this method.

5.2 *Sample Introduction System.* Pump, flow control valve, and flowmeter.

5.3 *Filter (In-line).* A filter with a porosity of 2 to 10 microns should be used to keep large particles from the sample cell.

5.4 *Moisture Control.* Refrigeration units are available with some commercial instruments for maintaining constant humidity. Drying tubes (with sufficient capacity to operate for 72 hours) containing indicating silica gel can be used. Other techniques that prevent the interference of moisture are satisfactory.

6. *Reagents.*

6.1 *Zero Gas.* Nitrogen or helium containing less than 0.1 mg. CO/m.³

6.2 *Calibration Gases.* Calibration gases corresponding to 10, 20, 40, and 80 percent of full scale are used. Gases must be provided with certification or guaranteed analysis of carbon monoxide content.

6.3 *Span Gas.* The calibration gas corresponding to 80 percent of full scale is used to span the instrument.

7. *Procedure.*

7.1 Calibrate the instrument as described in 8.1. All gases (sample, zero, calibration, and span) must be introduced into the entire analyzer system. Figure C1 shows a typical flow diagram. For specific operating instructions, refer to the manufacturer's manual.

8. *Calibration.*

8.1 *Calibration Curve.* Determine the linearity of the detector response at the operating flow rate and temperature. Prepare a calibration curve and check the curve furnished with the instrument. Introduce zero gas and set the zero control to indicate a recorder reading of zero. Introduce span gas and adjust the span control to indicate the proper value on the recorder scale (e.g. on 0–58 mg./m.³ scale, set the 46 mg./m.³ standard at 80 percent of the recorder chart). Recheck zero and span until adjustments are no longer necessary. Introduce intermediate calibration gases and plot the values obtained. If a smooth curve is not obtained, calibration gases may need replacement.

9. *Calculations.*

9.1 Determine the concentrations directly from the calibration curve. No calculations are necessary.

9.2 Carbon monoxide concentrations in mg./m.³ are converted to p.p.m. as follows:

$$\text{p.p.m. CO} = \text{mg. CO/m.}^3 \times 0.873$$

10. *Bibliography.*

The Intech NDIR–CO Analyzer by Frank McElroy. Presented at the 11th Methods Conference in Air Pollution, University of California, Berkeley, Calif., April 1, 1970.

Jacobs, M. B. et al., J.A.P.C.A. *9, No. 2,* 110–114, August 1959.

MSA LIRA Infrared Gas and Liquid Analyzer Instruction Book, Mine Safety Appliances Co., Pittsburgh, Pa.

Beckman Instruction 1635B, Models 215A, 315A and 415A Infrared Analyzers, Beckman Instrument Company, Fullerton, Calif.

Continuous CO Monitoring System, Model A 5611, Intertech Corp., Princeton, N.J.

Bendix—UNOR Infrared Gas Analyzers. Ronceverte, W. Va.

ADDENDA

A. *Suggested Performance Specifications for NDIR Carbon Monoxide Analyzers:*

Range (minimum)	0–58 mg./m.³ (0–50 p.p.m.).
Output (minimum)	0–10, 100, 1,000, 5,000 mv. full scale.
Minimum detectable sensitivity.	0.6 mg./m.³ (0.5 p.p.m.).
Lag time (maximum)	15 seconds.
Time to 90 percent response (maximum).	30 seconds.
Rise time, 90 percent (maximum).	15 seconds.
Fall time, 90 percent (maximum).	15 seconds.
Zero drift (maximum)	3 percent/week, not to exceed 1 percent/24 hours.
Span drift (maximum)	3 percent/week, not to exceed 1 percent/24 hours.
Precision (minimum)	±0.5 percent.
Operational period (minimum).	3 days.
Noise (maximum)	±0.5 percent.
Interference equivalent (maximum).	1 percent of full scale.
Operating temperature range (minimum).	5–40° C.
Operating humidity range (minimum).	10–100 percent.
Linearity (maximum deviation).	1 percent of full scale.

B. *Suggested Definitions of Performance Specifications:*

Range—The minimum and maximum measurement limits.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedance.

Full Scale—The maximum measuring limit for a given range.

Minimum Detectable Sensitivity—The smallest amount of input concentration that can be detected as the concentration approaches zero.

Accuracy—The degree of agreement between a measured value and the true value; usually expressed as ± percent of full scale

Lag Time—The time interval from a step change in input concentration at the instrument inlet to the first corresponding change in the instrument output.

Time to 90 percent Response—The time interval from a step change in the input concentration at the instrument inlet to a reading of 90 percent of the ultimate recorded concentration.

Rise Time (90 percent)—The interval between initial response time and time to 90 percent response after a step increase in the inlet concentration.

Fall Time (90 percent)—The interval between initial response time and time to 90 percent response after a step decrease in the inlet concentration.

Zero Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is zero; usually expressed as percent full scale.

Span Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is a stated upscale value; usually expressed as percent full scale.

Precision—The degree of agreement between repeated measurements of the same concentration, expressed as the average deviation of the single results from the mean.

Operational Period—The period of time over which the instrument can be expected to operate unattended within specifications.

Noise—Spontaneous deviations from a mean output not caused by input concentration changes.

Interference—An undesired positive or negative output caused by a substance other than the one being measured.

Interference Equivalent—The portion of indicated input concentration due to the presence of an interferent.

Operating Temperature Range—The range of ambient temperatures over which the instrument will meet all performance specifications.

Operating Humidity Range—The range of ambient relative humidity over which the instrument will meet all performance specifications.

Linearity—The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upper and lower calibration points.

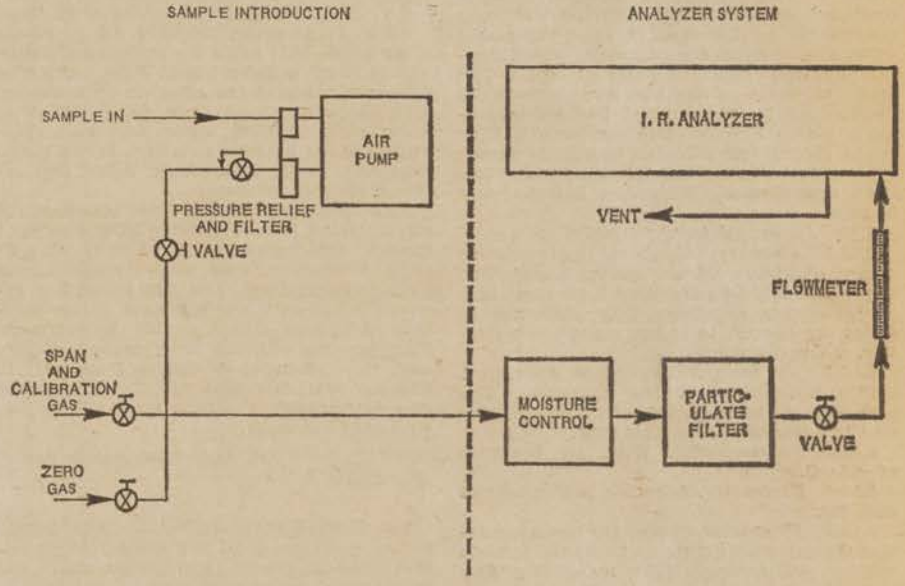

Figure C1. Carbon monoxide analyzer flow diagram.

APPENDIX D—REFERENCE METHOD FOR THE MEASUREMENT OF PHOTOCHEMICAL OXIDANTS CORRECTED FOR INTERFERENCES DUE TO NITROGEN OXIDES AND SULFUR DIOXIDE

1. *Principle and Applicability.*

1.1 Ambient air and ethylene aee delivered simultaneously to a mixing zone where the ozone in the air reacts with the ethylene to emit light which is detected by a photomultiplier tube. The resulting photocurrent is amplified and is either read directly or displayed on a recorder.

1.2 The method is applicable to the continuous measurement of ozone in ambient air.

2. *Range and Sensitivity.*

2.1 The range is 9.8 μg. O_3/m.³ to greater than 1960 Ng. O_3/m.³ (0.005 p.p.m. O_3 to greater than 1 p.p.m. O_3).

2.2 The sensitivity is 9.8 μg. O_3/m.³ (0.005 p.p.m. O_3).

3. *Interferences.*

3.1 Other oxidizing and reducing species normally found in ambient air do not interfere.

4. *Precision and Accuracy.*

4.1 The average deviation from the mean of repeated single measurements does not exceed 5 percent of the mean of the measurements.

4.2 The method is accurate within ±7 percent.

5. *Apparatus.*

5.1 *Detector Cell.* Figure D1 is a drawing of a typical detector cell showing flow paths of gases, the mixing zone, and placement of the photomultiplier tube. Other flow paths in which the air and ethylene streams meet

at a point near the photomultiplier tube are also allowable.

5.2 *Air Flowmeter.* A device capable of controlling air flows between 0–1.5 l/min.

5.3 *Ethylene Flowmeter.* A device capable of controlling ethylene flows between 0–50 ml./min. At any flow in this range, the device should be capable of maintaining constant flow rate within ±3 ml./min.

5.4 *Air Inlet Filter.* A Teflon filter capable of removing all particles greater than 5 microns in diameter.

5.5 *Photomultiplier Tube.* A high gain low dark current (not more than 1×10^{-9} ampere) photomultiplier tube having its maximum gain at about 430 nm. The following tubes are satisfactory: RCA 4507, RCA 8575, EMI 9750, EMI 9524, and EMI 9536.

5.6 *High Voltage Power Supply.* Capable of delivering up to 2,000 volts.

5.7 *Direct Current Amplifier.* Capable of full scale amplification of currents from 10^{-10} to 10^{-7} ampere; an electrometer is commonly used.

5.8 *Recorder.* Capable of full scale display of voltages from the DC amplifier. These voltages commonly are in the 1 millivolt to 1-volt range.

5.9 *Ozone Source and Dilution System.* The ozone source consists of a quartz tube into which ozone-free air is introduced and then irradiated with a very stable low pressure mercury lamp. The level of irradiation is controlled by an adjustable aluminum sleeve which fits around the lamp. Ozone concentrations are varied by adjustment of this sleeve. At a fixed level of irradiation, ozone is produced at a constant rate. By carefully controlling the flow of air through the quartz tube, atmospheres are generated which contain constant concentrations of ozone. The levels of ozone in the test atmospheres are determined by the neutral buffered potassium iodide method (see section 8). This ozone source and dilution system is shown schematically in Figures D2 and D3, and has been described by Hodgeson, Stevens, and Martin.

5.10 *Apparatus for Calibration*

5.10.1 *Absorber.* All-glass impingers as shown in Figure D4 are recommended. The impingers may be purchased from most major glassware suppliers. Two absorbers in series are needed to insure complete collection of the sample.

5.10.2 *Air Pump.* Capable of drawing 1 liter/minute through the absorbers. The pump should be equipped with a needle valve on the inlet side to regulate flow.

5.10.3 *Thermometer.* With an accuracy of ±2° C.

5.10.4 *Barometer.* Accurate to the nearest mm. Hg.

5.10.5 *Flowmeter.* Calibrated metering device for measuring flow up to 1 liter/minute within ±2 percent. (For measuring flow through impingers.)

5.10.6 *Flowmeter.* For measuring airflow past the lamp; must be capable of measuring flows from 2 to 15 liters/minute within ±5 percent.

5.10.7 *Trap.* Containing glass wool to protect needle valve.

5.10.8 *Volumetric Flasks.* 25, 100, 500, 1,000 ml.

5.10.9 *Buret.* 50 ml.

5.10.10 *Pipets.* 0.5, 1, 2, 3, 4, 10, 25, and 50 ml. volumetric.

5.10.11 Erlenmeyer Flasks. 300 ml.

5.10.12 *Spectrophotometer.* Capable of measuring absorbance at 352 nm. Matched 1-cm. cells should be used.

6. *Reagents.*

6.1 *Ethylene.* C. P. grade (minimum).

6.2 *Cylinder Air.* Dry grade.

6.3 *Activated Charcoal Trap.* For filtering cylinder air.

6.4 *Purified Water.* Used for all reagents. To distilled or deionized water in an all-glass distillation apparatus, add a crystal of potassium permanganate and a crystal of barium hydroxide, and redistill.

6.5 *Absorbing Reagent.* Dissolve 13.6 g. potassium dihydrogen phosphate (KH_2PO_4), 14.2 g. anhydrous disodium hydrogen phosphate (Na_2HPO_4) or 35.8 g. dodecahydrate salt ($Na_2HPO_4{\cdot}12H_2O$), and 10.0 g. potassium iodide (KI) in purified water and dilute to 1,000 ml. The pH should be 6.8±0.2. The solution is stable for several weeks, if stored in a glass-stoppered amber bottle in a cool, dark place.

6.6 *Standard Arsenious Oxide Solution (0.05 N).* Use primary standard grade arsenious oxide (As_2O_3). Dry 1 hour at 105° C. immediately before using. Accurately weigh 2.4 g. arsenious oxide from a small glass-stoppered weighing bottle. Dissolve in 25 ml. 1 N sodium hydroxide in a flask or beaker on a steam bath. Add 25 ml. 1 N sulfuric acid. Cool, transfer quantitatively to a 1,000-ml. volumetric flask, and dilute to volume. NOTE: Solution must be neutral to litmus, not alkaline.

$$\text{Normality } As_2O_3 = \frac{\text{wt } As_2O_3 \text{ (g.)}}{49.46}$$

6.7 *Starch Indicator Solution (0.2 percent).* Triturate 0.4 g. soluble starch and approximately 2 mg. mercuric iodide (preservative) with a little water. Add the paste slowly to 200 ml. of boiling water. Continue boiling until the solution is clear, allow to cool, and transfer to a glass-stoppered bottle.

6.8 *Standard Iodine Solution (0.05 N).*

6.8.1 *Preparation.* Dissolve 5.0 g. potassium iodide (KI) and 3.2 g. resublimed iodine (I_2) in 10 ml. purified water. When the iodine dissolves, transfer the solution to a 500-ml. glass-stoppered volumetric flask. Dilute to mark with purified water and mix thoroughly. Keep solution in a dark brown glass-stoppered bottle away from light, and restandardize as necessary.

6.8.2 *Standardization.* Pipet accurately 20 ml. standard arsenious oxide solution into a 300-ml. Erlenmeyer flask. Acidify slightly with 1:10 sulfuric acid, neutralize with solid sodium bicarbonate, and add about 2 g. excess. Titrate with the standard iodine solution using 5 ml. starch solution as indicator. Saturate the solution with carbon dioxide near the end point by adding 1 ml. of 1:10 sulfuric acid. Continue the titration to the first appearance of a blue color which persists for 30 seconds.

$$\text{Normality } I_2 = \frac{\text{ml. } As_2O_3 \times \text{Normality } As_2O_3}{\text{ml. } I_2}$$

6.9 *Diluted Standard Iodine.* Immediately before use, pipet 1 ml. standard iodine solution into a 100-ml. volumetric flask and dilute to volume with absorbing reagent.

7. *Procedure.*

7.1 Instruments can be constructed from the components given here or may be purchased. If commercial instruments are used, follow the specific instructions given in the manufacturer's manual. Calibrate the instrument as directed in section 8. Introduce samples into the system under the same conditions of pressure and flow rate as are used in calibration. By proper adjustments of zero and span controls, direct reading of ozone concentration is possible.

8. *Calibration.*

8.1 *KI Calibration Curve.* Prepare a curve of absorbance of various iodine solutions against calculated ozone equivalents as follows:

8.1.1 Into a series of 25 ml. volumetric flasks, pipet 0.5, 1, 2, 3, and 4 ml. of diluted standard iodine solution (6.9). Dilute each to the mark with absorbing reagent. Mix thoroughly, and immediately read the absorbance of each at 352 nm. against unexposed absorbing reagent as the reference.

8.1.2 Calculate the concentration of the solutions as total $\mu g.\ O_3$ as follows:

Total $\mu g.\ O_3 = (N)\ (96)\ (V_1)$

N = Normality I_2 (see 6.8.2), meq./ml.

V_1 = Volume of diluted standard I_2 added, ml. (0.5, 1, 2, 3, 4).

Plot absorbance versus total $\mu g.\ O_3$.

8.2 *Instrument Calibration.*

8.2.1 *Generation of Test Atmospheres.* Assemble the apparatus as shown in Figure D3. The ozone concentration produced by the generator can be varied by changing the position of the adjustable sleeve. For calibration of ambient air analyzers, the ozone source should be capable of producing ozone concentrations in the range 100 to 1,000 $\mu g./m.^3$ (0.05 to 0.5 p.p.m.) at a flow rate of at least 5 liters per minute. At all times the airflow through the generator must be greater than the total flow required by the sampling systems.

8.2.2 *Sampling and Analyses of Test Atmospheres.* Assemble the KI sampling train as shown in Figure D4. Use ground-glass connections upstream from the impinger. Butt-to-butt connections with Tygon tubing may be used. The manifold distributing the test atmospheres must be sampled simultaneously by the KI sampling train and the instrument to be calibrated. Check assembled systems for leaks. Record the instrument response in nanoamperes at each concentration (usually six). Establish these concentrations by analysis, using the neutral buffered potassium iodide method as follows:

8.2.2.1 *Blank.* With ozone lamp off, flush the system for several minutes to remove residual ozone. Pipet 10 ml. absorbing reagent into each absorber. Draw air from the ozone-generating system through the sampling train at 0.2 to 1 liter/minute for 10 minutes. Immediately transfer the exposed solution to a clean 1-cm. cell. Determine the absorbance at 352 nm. against unexposed absorbing reagent as the reference. If the system blank gives an absorbance, continue flushing the ozone generation system until no absorbance is obtained.

8.2.2.2 *Test Atmospheres.* With the ozone lamp operating, equilibrate the system for about 10 minutes. Pipet 10 ml. of absorbing reagent into each absorber and collect samples for 10 minutes in the concentration range desired for calibration. Immediately transfer the solutions from the two absorbers to clean 1-cm. cells. Determine the absorbance of each at 352 nm. against unexposed absorbing reagent as the reference. Add the absorbances of the two solutions to obtain total absorbance. Read total $\mu g.O_3$ from the calibration curve (see 8.1). Calculate total volume of air sampled corrected to reference conditions of 25° C. and 760 mm. Hg. as follows:

$$V_R = V \times \frac{P}{760} \times \frac{298}{t+273} \times 10^{-3}$$

V_R = Volume of air at reference conditions, $m.^3$

V = Volume of air at sampling conditions, liters.

P = Barometric pressure at sampling conditions, mm. Hg.

t = Temperature at sampling conditions, °C.

10^{-3} = Conversion of liters to $m.^3$

Calculate ozone concentration in p.p.m. as follows:

$$\text{p.p.m. } O_3 = \frac{\mu\text{g. } O_3}{V_R} \times 5.10 \times 10^{-4}$$

8.2.3 *Instrument Calibration Curve.* Instrument response from the photomultiplier tube is ordinarily in current or voltage. Plot the current, or voltage if appropriate, (y-axis) for the test atmospheres against ozone concentration as determined by the neutral buffered potassium iodide method, in p.p.m. (x-axis).

9. *Calculations.*

9.1 If a recorder is used which has been properly zeroed and spanned, ozone concentrations can be read directly.

9.2 If the DC amplifier is read directly, the reading must be converted to ozone concentrations using the instrument calibration curve (8.2.3).

9.3 Conversion between p.p.m. and $\mu g./m.^3$ values for ozone can be made as follows:

$$\text{p.p.m. } O_3 = \frac{\mu\text{g. } O_3}{\text{m.}^3} \times 5.10 \times 10^{-4}$$

10. *Bibliography.*

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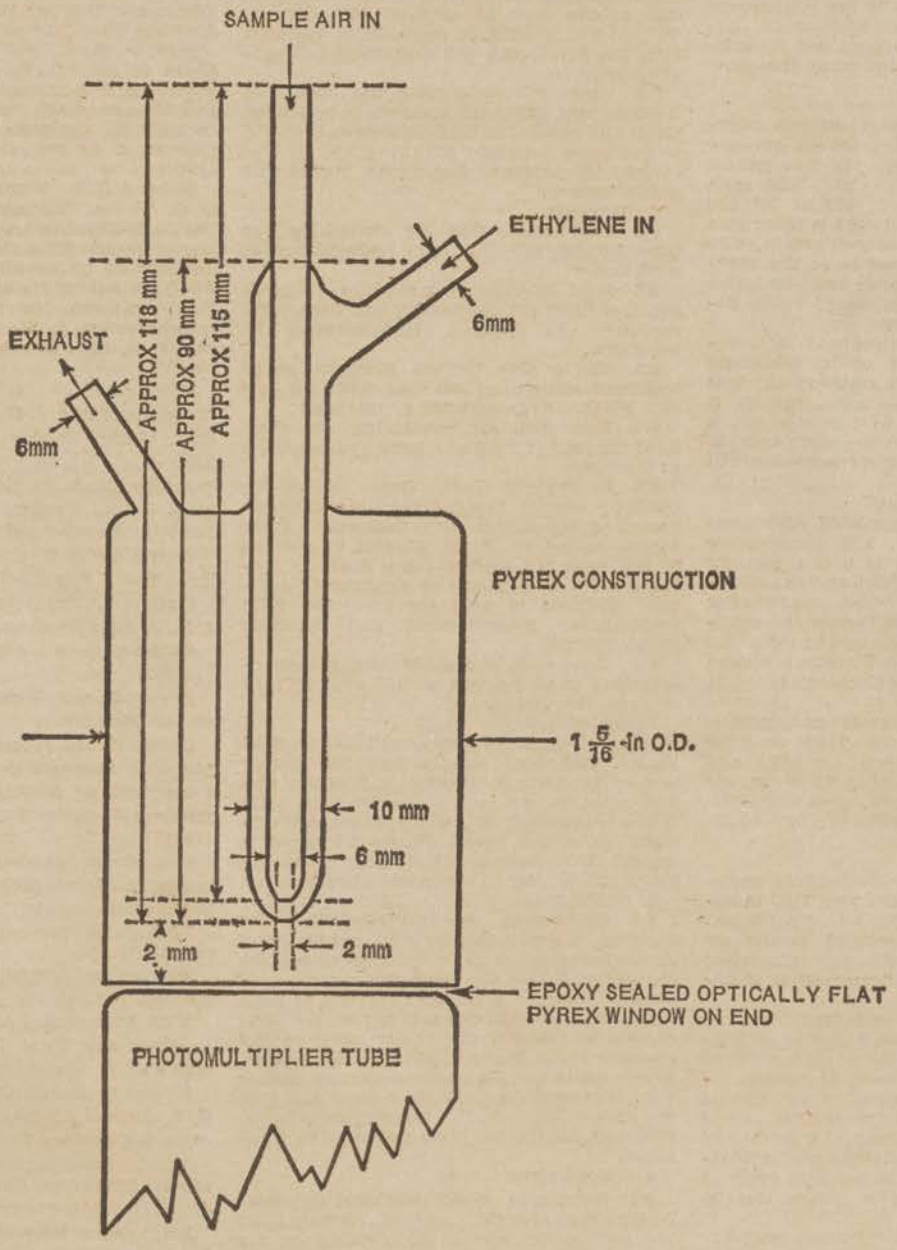

Figure D1. Detector cell.

APPENDIX E—REFERENCE METHOD FOR DETERMINATION OF HYDROCARBONS CORRECTED FOR METHANE

1. *Principle and Applicability.*

1.1 Measured volumes of air are delivered semicontinuously (4 to 12 times per hour) to a hydrogen flame ionization detector to measure its total hydrocarbon (THC) content. An aliquot of the same air sample is introduced into a stripper column which removes water, carbon dioxide, hydrocarbons other than methane, and carbon monoxide. Methane and carbon monoxide are passed quantitatively to a gas chromatographic column where they are separated. The methane is eluted first, and is passed unchanged through a catalytic reduction tube into the flame ionization detector. The carbon monoxide is eluted into the catalytic reduction tube where it is reduced to methane before passing through the flame ionization detector. Between analyses the stripper column is backflushed to prepare it for subsequent analysis. Hydrocarbon concentrations corrected for methane are determined by subtracting the methane value from the total hydrocarbon value.

Two modes of operation are possible: (1) A complete chromatographic analysis showing the continuous output from the detector for each sample injection; (2) The system is programed for automatic zero and span to display selected band widths of the chromatogram. The peak height is then used as the measure of the concentration. The former operation is referred to as the chromatographic or spectro mode and the latter as the barographic or "normal" mode depending on the make of analyzer.

1.2 The method is applicable to the semicontinuous measurement of hydrocarbons corrected for methane in ambient air. The carbon monoxide measurement, which is simultaneously obtained in this method, is not required in making measurements of hydrocarbons corrected for methane and will not be dealt with here.

2. *Range and Sensitivity.*

2.1 Instruments are available with various range combinations. For atmospheric analysis the THC range is 0–13.1 mg./m.³ (0–20 p.p.m.) carbon (as CH_4) and the methane range is 0–6.55 mg/m.³ (0–10 p.p.m.). For special applications, lower ranges are available and in these applications the range for THC is 0–1.31 mg./m.³ (0–2 p.p.m.) carbon (as CH_4) and for methane the range is 0–1.31 mg./m.³ (0–2 p.p.m.).

2.2 For the higher, atmospheric analysis ranges the sensitivity for THC is 0.065 mg./m.³ (0.1 p.p.m.) carbon (as CH_4) and for methane the sensitivity is 0.033 mg./m.³ (0.05 p.p.m.). For the lower, special analysis ranges the sensitivity is 0.016 mg./m.³ (0.025 p.p.m.) for each gas.

3. *Interferences.*

3.1 No interference in the methane measurement has been observed. The THC measurement typically includes all or a portion of what is generally classified as the air peak interference. This effect is minimized by proper plumbing arrangements or is negated electronically.

4. *Precision, Accuracy, and Stability.*

4.1 Precision determined with calibration gases is +0.5 percent of full scale in the higher, atmospheric analysis ranges.

4.2 Accuracy is dependent on instrument linearity and absolute concentration of the calibration gases. An accuracy of 1 percent of full scale in the higher, atmospheric analysis ranges and 2 percent of full scale in the lower, special analysis ranges can be obtained.

4.3 Variations in ambient room temperature can cause changes in performance characteristics. This is due to shifts in oven temperature, flow rates, and pressure with ambient temperature change. The instrument should meet performance specifications with room temperature changes of ±3° C. Baseline drift is automatically corrected in the barographic mode.

5. *Apparatus.*

5.1 *Commercially Available THC, CH_4, and CO Analyzer.* Instruments should be installed on location and demonstrated, preferably by the manufacturer, or his representative, to meet or exceed manufacturer's specifications and those described in this method.

5.2 *Sample Introduction System.* Pump, flow control valves, automatic switching valves, and flowmeter.

5.3 *Filter (In-line).* A binder-free, glass-fiber filter with a porosity of 3 to 5 microns should be immediately downstream from the sample pump.

5.4 *Stripper or Precolumn.* Located outside of the oven at ambient temperature. The column should be repacked or replaced after the equivalent of 2 months of continuous operation.

5.5 *Oven.* For containing the analytical column and catalytic converter. The oven should be capable of maintaining an elevated temperature constant within ±0.5° C. The specific temperature varies with instrument manufacturer.

6. *Reagents.*

6.1 *Combustion Gas.* Air containing less than 1.3 mg./m.³ (2 p.p.m.) hydrocarbon as methane.

6.2 *Fuel.* Hydrogen or a mixture of hydrogen and inert gas containing less than 0.065 mg./m.³ (0.1 p.p.m.) hydrocarbons as methane.

6.3 *Carrier Gas.* Helium, nitrogen, air or hydrogen containing less than 0.065 mg./m.³ (0.1 p.p.m.) hydrocarbons as methane.

6.4 *Zero Gas.* Air containing less than 0.065 mg./m.³ (0.1 p.p.m.) total hydrocarbons as methane.

6.5 *Calibration Gases.* Gases needed for linearity checks (peak heights) are determined by the ranges used. Calibration gases corresponding to 10, 20, 40, and 80 percent of full scale are needed. Gases must be provided with certification or guaranteed analysis. Methane is used for both the total hydrocarbon measurement and methane measurement.

6.6 *Span Gas.* The calibration gas corresponding to 80 percent of full scale is used to span the instrument.

7. *Procedure.*

7.1 Calibrate the instrument as described in 8.1. Introduce sample into the system under the same conditions of pressure and flow rates as are used in calibration. (The pump is bypassed only when pressurized cylinder gases are used.) Figure E1 shows a typical flow diagram; for specific operating instructions refer to manufacturer's manual.

8. *Calibration.*

8.1 *Calibration Curve.* Determine the linearity of the system for THC and methane in the barographic mode by introducing zero gas and adjusting the respective zeroing controls to indicate a recorder reading of zero. Introduce the span gas and adjust the span control to indicate the proper value on the recorder scale. Recheck zero and span until adjustments are no longer necessary. Introduce intermediate calibration gases and plot the values obtained. If a smooth curve is not obtained, calibration gases may need replacement.

9. *Calculation.*

9.1 Determine concentrations of total hydrocarbons (as CH_4) and CH_4, directly from the calibration curves. No calculations are necessary.

9.2 Determine concentration of hydrocarbons corrected for methane by subtracting the methane concentration from the total hydrocarbon concentration.

9.3 Conversion between p.p.m. and mg./m.³ values for total hydrocarbons (as CH_4) methane and hydrocarbons corrected for methane are made as follows:

p.p.m. carbon (as CH_4) = [mg. carbon (as CH_4)/m.³] × 1.53

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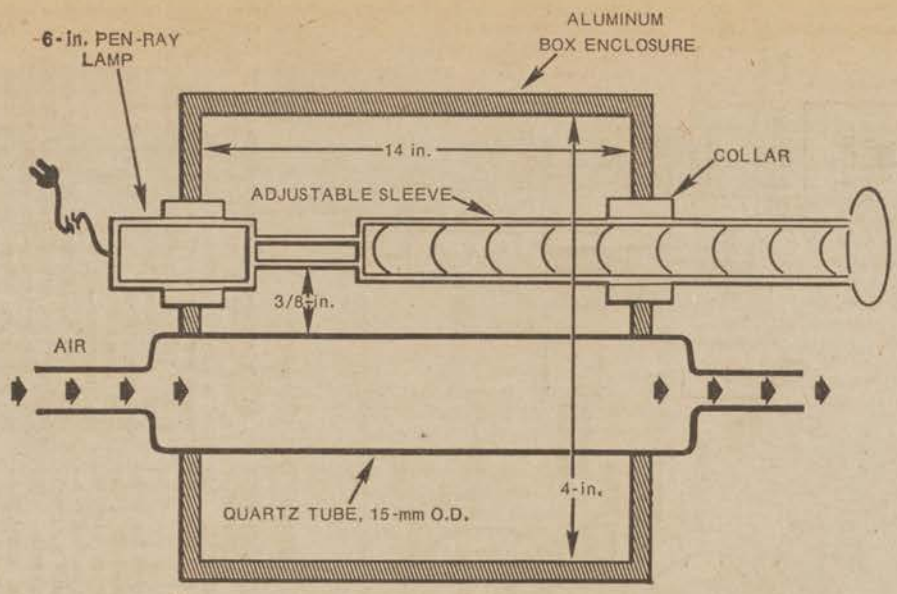

Figure D2. Ozone source.

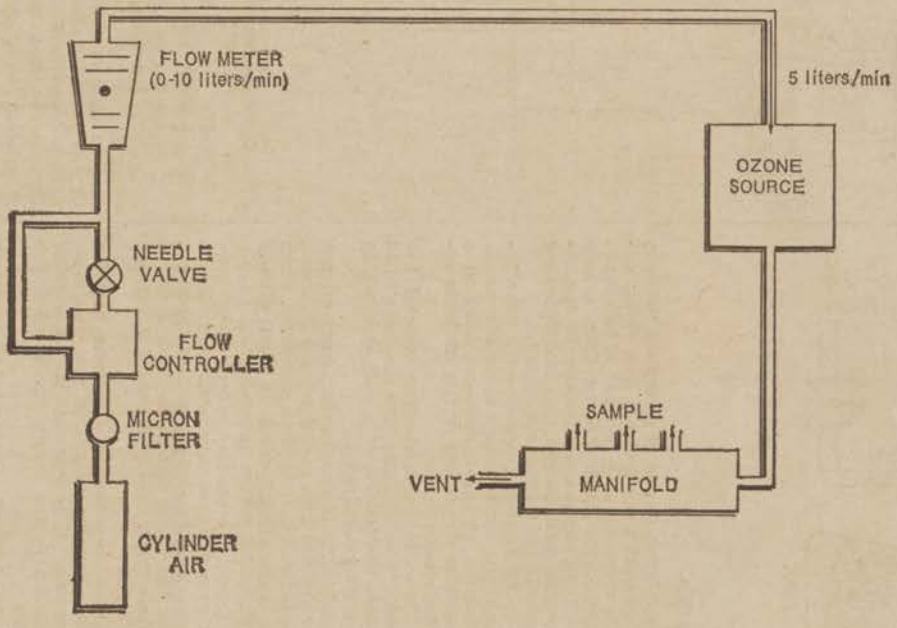

Figure D3. Ozone calibration air supply, source, and manifold system.

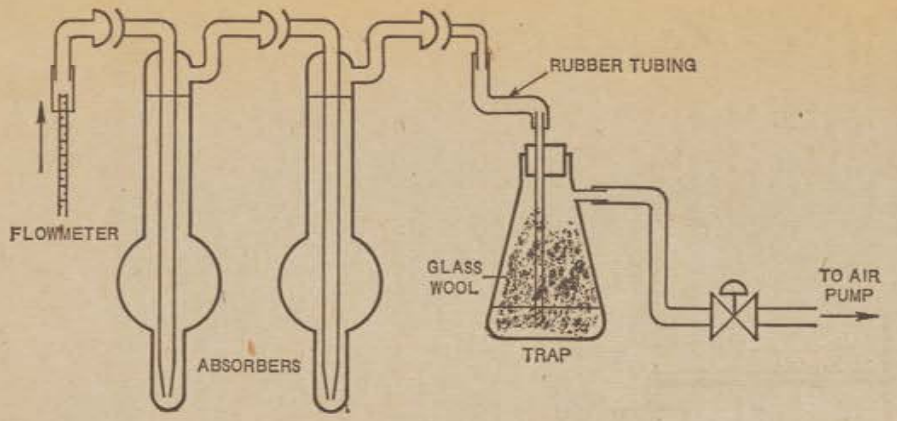

Figure D4. KI sampling train.

ADDENDA

A. *Suggested Performance Specifications for Atmospheric Analyzers for Hydrocarbons Corrected for Methane:*

Range (minimum)	0–5 p.p.m. THC.
Output (minimum)	0–5 p.p.m. CH_4.
Minimum detectable sensitivity	0–10 mv. full scale.
Zero drift (maximum)	0.1 p.p.m. THC.
Span drift (maximum)	0.1 p.p.m. CH_4.
Precision (minimum)	Not to exceed 1 percent/24 hours.
Operational period (minimum)	Not to exceed 1 percent/24 hours.
Operating temperature range (minimum)	±0.5 percent.
Operating humidity range (minimum)	3 days.
Linearity (maximum)	5–40° C.
	10–100 percent.
	1 percent of full scale.

B. *Suggested Definitions of Performance Specifications:*

Range—The minimum and maximum measurement limits.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedence.

Full Scale—The maximum measuring limit for a given range.

Minimum Detectable Sensitivity—The smallest amount of input concentration that can be detected as the concentration approaches zero.

Accuracy—The degree of agreement between a measured value and the true value; usually expressed at ± percent of full scale.

Lag Time—The time interval from a step change in input concentration at the instrument inlet to the first corresponding change in the instrument output.

Time to 90 Percent Response—The time interval from a step change in the input concentration at the instrument inlet to a reading of 90 percent of the ultimate recorded concentration.

Rise Time (90 percent)—The interval between initial response time and time to 90 percent response after a step decrease in the inlet concentration.

Zero Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is zero; usually expressed as percent full scale.

Span Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is a stated upscale value; usually expressed as percent full scale.

Precision—The degree of agreement between repeated measurements of the same concentration. It is expressed as the average deviation of the single results from the mean.

Operational Period—The period of time over which the instrument can be expected to operate unattended within specifications.

Noise—Spontaneous deviations from a mean output not caused by input concentration changes.

Interference—An undesired positive or negative output caused by a substance other than the one being measured.

Interference Equivalent—The portion of indicated input concentration due to the presence of an interferent.

Operating Temperature Range—The range of ambient temperatures over which the instrument will meet all performance specifications.

Operating Humidity Range—The range of ambient relative humidity over which the instrument will meet all performance specifications.

Linearity—The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upper and lower calibration points.

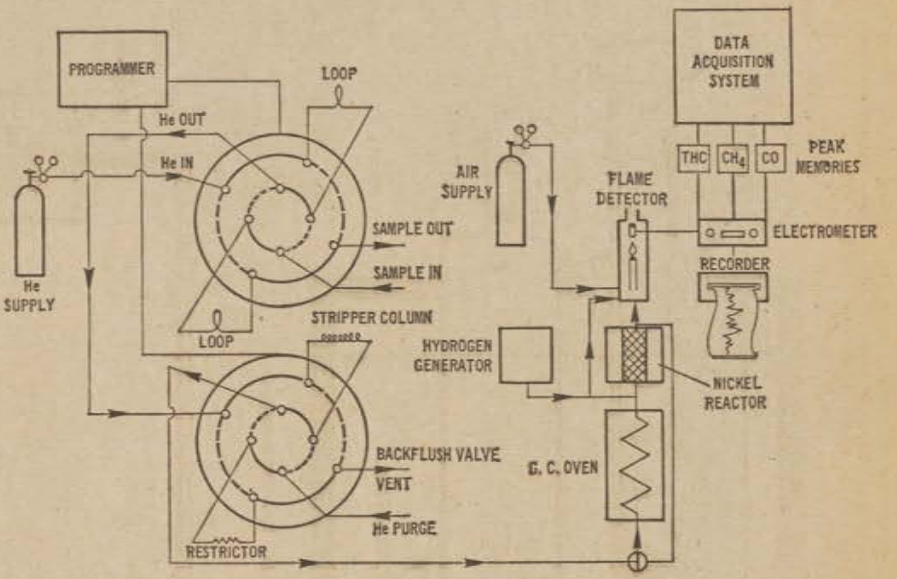

Figure E1. Typical flow diagram.

APPENDIX F—REFERENCE METHOD FOR THE DETERMINATION OF NITROGEN DIOXIDE IN THE ATMOSPHERE (24-HOUR SAMPLING METHOD)

1. *Principle and Applicability.*

1.1 Nitrogen dioxide is collected by bubbling air through a sodium hydroxide solution to form a stable solution of sodium nitrite. The nitrite ion produced during sampling is determined colorimetrically by reacting the exposed absorbing reagent with phosphoric acid, sulfanilamide, and N-1-naphthylethylenediamine dihydrochloride.

1.2 The method is applicable to collection of 24-hour samples in the field and subsequent analysis in the laboratory.

2. *Range and Sensitivity.*

2.1 The range of the analysis is 0.04 to 1.5 $\mu g.$ NO_2^-/ml. With 50 ml. absorbing reagent and a sampling rate of 200 ml./min. for 24 hours, the range of the method is 20–740 $\mu g./m.^3$ (0.01–0.4 p.p.m.) nitrogen dioxide.

2.2 A concentration of 0.04 $\mu g.$ NO_2^-/ml. will produce an absorbance of 0.02 using 1-cm. cells.

3. *Interferences.*

3.1 The interference of sulfur dioxide is eliminated by converting it to sulfuric acid with hydrogen peroxide before analysis. (*1*)

4. *Precision, Accuracy, and Stability.*

4.1 The relative standard deviations are 14.4 percent and 21.5 percent at nitrogen dioxide concentrations of 140 $\mu g./m.^3$ (0.072 p.p.m.) and 200 $\mu g./m.^3$ (0.108 p.p.m.), respectively, based on an automated analysis of

samples collected from a standard test atmosphere. Precision would probably be different when the analysis is performed manually.

4.2 No accuracy data are available.

4.3 Samples are stable for at least 6 weeks.

5. *Apparatus.*

5.1 *Sampling.* See Figure F1.

5.1.1 *Absorber.* Polypropylene tubes 164 x 32 mm., equipped with polypropylene two-port closures.* Rubber stoppers cause high and varying blank values and should not be used. A gas dispersion tube with a fritted end of porosity B (70–100 μm. maximum pore diameter) is used.

5.1.1.1 *Measurement of Maximum Pore Diameter of Frit.* Carefully clean the frit with dichromate-concentrated sulfuric acid cleaning solution and rinse well with distilled water. Insert through one hole of a two-hole rubber stopper and install in a test tube containing sufficient distilled water to cover the fritted portion. Attach a vacuum source to the other hole of the rubber stopper and measure the vacuum required to draw the first perceptible stream of air bubbles through the frit. Apply the following equation:

$$\text{maximum pore diameter, } \mu\text{m.} = \frac{30s}{P}$$

s = Surface tension of water in dynes/cm. at the test temperature (73 at 18° C., 72 at 25° C., and 71 at 31° C.).

P = Measured vacuum, mm. Hg.

5.1.2 *Probe.* Teflon, polypropylene, or glass tube with a polypropylene or glass funnel at the end and a membrane filter to protect the frit. Replace filter after collecting five samples, or more often as indicated by visual observation of the loading.

5.1.3 *Flow Control Device.* Calibrated 27-gauge hypodermic needle, three-eighths of an inch long to maintain a flow of approximately 0.2 liter/minute. The needle should be protected by a membrane filter. Change filter after collecting 10 samples.

5.1.4 *Air Pump.* Capable of maintaining a flow of 0.2 liter/minute through the absorber, and a vacuum of 0.7 atmosphere.

5.1.5 *Calibration Equipment.* Glass flowmeter for measuring airflows up to approximately 275 ml./min. within ±2 percent, stopwatch, and precision wet test meter (1 liter/revolution).

5.2 *Analysis.*

5.2.1 *Volumetric Flasks.* 50, 100, 200, 250, 500, 1,000 ml.

5.2.2 *Graduated Cylinder.* 1,000 ml.

5.2.3 *Pipets.* 1, 2, 5, 10, 15 ml. volumetric; 2 ml., graduated in 1/10 ml. intervals.

5.2.4 *Test Tube.*

5.2.5 *Spectrophotometer or Colorimeter.* Capable of measuring absorbance at 540 nm. Bandwidth is not critical.

6. *Reagents.*

6.1 *Sampling.*

6.1.1 *Absorbing Reagent.* Dissolve 4.0 g. sodium hydroxide in distilled water and dilute to 1,000 ml.

6.2 *Analysis.*

6.2.1 *Sulfanilamide.* Dissolve 20 g. sulfanilamide in 700 ml. distilled water. Add, with mixing, 50 ml. concentrated phosphoric acid (85 percent) and dilute to 1,000 ml. This solution is stable for a month if refrigerated.

6.2.2 *NEDA Solution.* Dissolve 0.5 g. N-1-naphthylethylenediamine dihydrochloride in distilled water. This solution is stable for a month if refrigerated and protected from light.

6.2.3 *Hydrogen Peroxide.* Dilute 0.2 ml. 30 percent hydrogen peroxide to 250 ml. with distilled water. This solution may be used for a month if protected from light.

6.2.4 *Standard Nitrite Solution.* Dissolve sufficient desiccated sodium nitrite ($NaNO_2$, assay of 97 percent or greater) and dilute with distilled water to 1,000 ml. so that a solution containing 1,000 μg. NO_2^-/ml. is obtained. The amount of $NaNO_2$ to use is calculated as follows:

$$G = \frac{1.500}{A} \times 100$$

G = Amount of $NaNO_2$, g.

1.500 = Gravimetric factor in converting NO_2 into $NaNO_2$.

A = Assay, percent.

7. *Procedure.*

7.1 *Sampling.* Assemble the sampling train as shown in Figure F1. Add 50 ml. absorbing reagent to the absorber. Disconnect funnel, insert calibrated flowmeter, and measure flow before sampling. If flow rate before sampling is less than 85 percent of needle calibration, check for leak or change filters as necessary. Remove flowmeter and replace funnel. Sample for 24 hours from midnight to midnight and measure flow at end of sampling period.

7.2 *Analysis.* Replace any water lost by evaporation during sampling. Pipet 10 ml. of the collected sample into a test tube. Add 1.0 ml. hydrogen peroxide solution, 10.0 ml. sulfanilamide solution, and 1.4 ml. NEDA solution with thorough mixing after the addition of each reagent. Prepare a blank in the same manner using 10 ml. absorbing reagent. After a 10-minute color-development interval, measure the absorbance at 540 mm. against the blank. Read μg. NO_2^-/ml. from standard curve (Section 8.2).

8. *Calibration and Efficiencies.*

8.1 *Sampling.*

8.1.1 *Calibration of Flowmeter.* Using a wet test meter and a stopwatch, determine the rates of air flow (ml./min.) through the flowmeter at several ball positions. Plot ball positions versus flow rates.

8.1.2 *Calibration of Hypodermic Needle.* Connect the calibrated flowmeter, the needle to be calibrated, and the source of vacuum in such a way that the direction of airflow through the needle is the same as in the sampling train. Read the position of the ball and determine flow rate in ml./min. from the calibration chart prepared in 8.1.1. Reject all needles not having flow rates of 190 to 210 ml./min. before sampling.

8.2 *Calibration Curve.* Dilute 5.0 ml. of the 1,000 μg. NO_2^-/ml. solution to 200 ml. with absorbing reagent. This solution contains 25 μg. NO_2^-/ml. Pipet 1, 2, 5, and 15 ml. of the 25 μg. NO_2^-/ml. solution into 50-, 50-, 100-, and 250-ml. volumetric flasks and dilute to the mark with absorbing reagent. The solutions contain 0.50, 1.00, 1.25, and 1.50 μg. NO_2^-/ml., respectively. Run standards as instructed in 7.2. Plot absorbance vs. μg. NO_2^-/ml.

8.3 *Efficiencies.* An overall average efficiency of 35 per cent was obtained from test atmospheres having nitrogen dioxide concentrations of 140 μg./m.^{3} and 200 μg./m.^{3} by automated analysis.(2)

9. *Calculation.*

9.1 *Sampling.*

9.1.1 Calculate volume of air sampled.

$$V = \frac{F_1 + F_2}{2} \times T \times 10^{-6}$$

V = Volume of air sampled, m.^{3}

F_1 = Measured flow rate before sampling, ml./min.

F_2 = Measured flow rate after sampling, ml./min.

T = Time of sampling, min.

10^{-6} = Conversion of ml. to m.^{3}

9.2 Calculate the concentration of nitrogen dioxide as μg. NO_2/m.^{3}

$$\mu\text{g. } NO_2/\text{m.}^3 = \frac{(\mu\text{g. } NO_2^-/\text{ml.}) \times 50}{V \times 0.35}$$

$$\frac{(\mu\text{g. } NO_2^-/\text{ml.}) \times 143}{V}$$

50 = Volume of absorbing reagent used in sampling, ml.

V = Volume of air sampled, m.^{3}

0.35 = Efficiency.

9.2.1 If desired, concentration of nitrogen dioxide may be calculated as p.p.m. NO_2.

$$\text{p.p.m.} = (\mu\text{g. } NO_2/\text{m.}^3) \times 5.32 \times 10^{-4}$$

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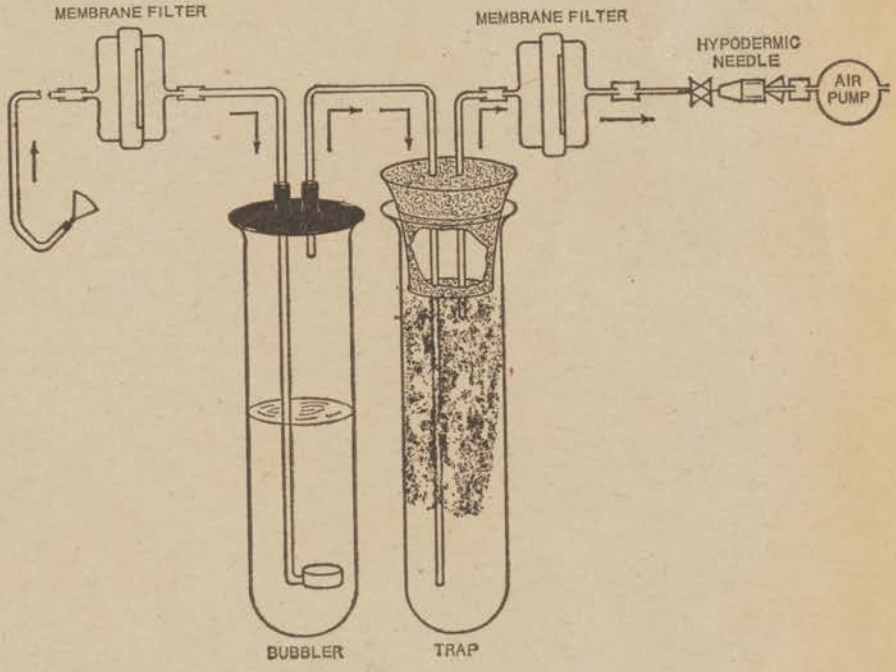

Figure F1. Sampling train.

*Available from Bel-Art Products, Pequannock, N.J.

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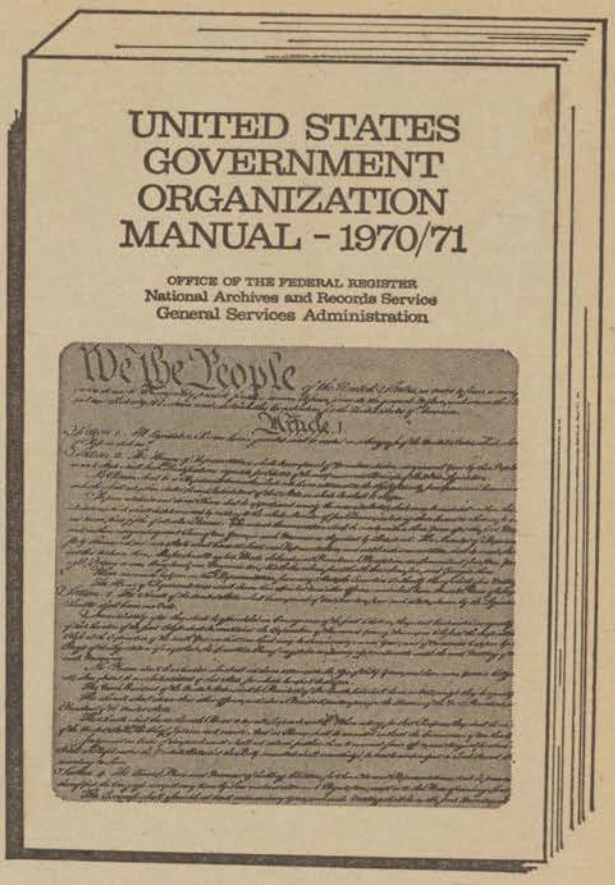

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