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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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Rules and Regulations

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Miscellaneous Amendments

The purpose of these amendments is to delete certain obsolete material, confirm interpretations of certain provisions, and clarify the kinds of sales of drugs and medical equipment that are not to be considered the providing of a medical service.

Because the purpose of these amendments is to provide immediate guidance and information as to the price stabilization rules in effect, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

Section 300.12 "Manufacturers", provides that a manufacturer "may charge a price in excess of the base price only to reflect allowable costs in effect on November 13, 1971, and cost increases being incurred after November 13, 1971 * * *" Similar provisions are found in § 300.14 "Service organizations, other than providers of health services and insurers"; § 300.18 "Institutional providers of health services"; and § 300.19 "Noninstitutional providers of health services." This wording has left some uncertainty as to whether only cost increases which occurred after November 13, 1971, or cost increases occurring even earlier than January 1, 1971, could be used. The Commission intends that the affected sections of the regulations allow cost increases to be used to justify price increases only to the extent they have occurred since the last price increase, or since January 1, 1971, whichever was later. All price increases will continue to be based on allowable costs, adjusted for productivity gains, and limited by base period profit margins. Since the amendment reflects a Commission decision which resolves an uncertainty in the regulations, the amendment will be applied to all cases that were not decided before January 4, 1972, the date the Commission made its decision.

The first sentence of § 300.13(c) set forth certain interim posting requirements that expired on January 1, 1972. Therefore, the section is being revised to delete the requirement.

Section 300.405(a) authorizes a person, in computing a base price, to exclude certain temporary deals or allowances "intended to be in effect for less than 92 days." It is the Commission's intent to allow the exclusion of those in effect for not more than 3 months. Therefore the phrase is being amended to read "intended to be in effect for less than 93 days."

Paragraph (e) of Appendix I to Part 300 provides that the sale of drugs and medical equipment by a manufacturing, wholesaler, or retail establishment is not considered to be the providing of a medical service. The paragraph has been revised to make it clear that "retailer" includes any person selling legend drugs to the public on a retail basis.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 971, Public Law 92-210; Executive Order No. 11627, 36 F.R. 20139, October 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971.)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations, is amended as follows. The amendments to §§ 300.12, 300.14, 300.18, and 300.19 become effective as of January 4, 1972. The amendments to § 300.13 (c) and paragraph (e) of Appendix I become effective on January 18, 1972.

Issued in Washington, D.C., on January 14, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

1. Section 300.12 is revised to read as follows:

§ 300.12 Manufacturers.

A manufacturer may charge a price in excess of the base price only to reflect increases in allowable costs that it incurred since the last price increase in the item concerned, or that it incurred after January 1, 1971, whichever was later, and that it is continuing to incur, reduced to reflect productivity gains, and only to the extent that the increased price does not result in an increase in its profit margin over that which prevailed during the base period.

2. Paragraph (c) of § 300.13 is amended by striking out the first sentence and that part of the second sentence preceding the colon and inserting the following in place thereof:

§ 300.13 Retailers and wholesalers.

* * * * *

(c) *Base price information.* After January 1, 1972, each retailer shall use the following procedure with respect to base prices not posted under paragraph (b) of this section:

* * * * *

3. Paragraph (a) of 300.14 is revised to read as follows:

§ 300.14 Service organizations, other than providers of health services and insurers.

(a) A service organization may charge a price in excess of the base price only to reflect increases in allowable costs that it incurred since the last price increase in the item concerned, or that it incurred after January 1, 1971, whichever was later, and that it is continuing to incur, reduced to reflect productivity gains, and only to the extent that the increased price does no result in an increase in its profit margin over that which prevailed during the base period.

* * * * *

4. Paragraph (b) of § 300.18 is amended by striking out that part preceding subparagraph (1) and inserting the following in place thereof:

§ 300.18 Institutional providers of health services.

* * * * *

(b) *General.* Subject to paragraph (c) of this section, an institutional provider of health services may charge a price in excess of the base price with respect to the furnishing of a service only to reflect increases in allowable costs that it incurred since the last price increase in the furnishing of that service, or that it incurred after January 1, 1971, whichever was later, and that it is continuing to incur, reduced to reflect productivity gains, and only to the extent that the increased price does not—

* * * * *

5. Paragraph (b) of § 300.19 is amended by striking out that part preceding subparagraph (1) and inserting the following in place thereof:

§ 300.19 Noninstitutional providers of health services.

* * * * *

(b) *General.* Subject to paragraph (c) of this section, a noninstitutional provider of health services may charge a price in excess of the base price with respect to the furnishing of a service only to reflect increases in allowable costs that it incurred since the last price increase in the furnishing of that service, or that it incurred after January 1, 1971, whichever was later, and that it is continuing to incur, reduced to reflect productivity gains, and only to the extent that the increased price does not—

* * * * *

6. Paragraph (a) of § 300.405 is amended by striking out "less than 92 days" and inserting "less than 93 days" in place thereof.

7. Paragraph (e) of Appendix I is revised to read as follows:

APPENDIX I—INSTITUTIONAL AND NONINSTITUTIONAL PROVIDERS OF HEALTH SERVICES

* * * * *

(e) For the purposes of this appendix, the sale of drugs and medical equipment by a manufacturer, wholesaler, or retailer is not considered to be the providing of a medical service. For the purposes of this paragraph,

"retailer" includes any person selling legend drugs to the public on a retail basis.

[FR Doc.72-832 Filed 1-17-72;10:40 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. K]

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

Acceptances

§ 211.107 Participations by banks in acceptance credits extended by Edge corporations.

(a) A question has been raised with the Board as to whether a corporation organized under section 25(a) of the Federal Reserve Act (an "Edge corporation") may extend acceptance credits to any one person in excess of 10 percent of its capital and surplus where the excess represents the international shipment of goods and is covered by a participation agreement with the Edge corporation's parent bank, or another bank, providing for unconditional reimbursement if an acceptance credit is not repaid for any reason.

(b) Section 211.9(a) of this part (Regulation K) provides that an Edge corporation shall be fully secured as to all acceptances for any one person in excess of 10 percent of its capital and surplus "except to the extent any such excess represents the international shipment of goods and is fully covered by primary obligations to reimburse it which are also guaranteed by banks or bankers." The exception permits an Edge corporation to extend to excess of the stated limits to the extent that it holds an acceptance agreement or similar agreement of such purchaser, accompanied by a guaranty of a bank, unconditionally obligating the purchaser and the bank to reimburse the Edge corporation for acceptance credits extended by it.

(c) The Board has concluded that a participation agreement, while not technically a guaranty, provides assurance of repayment equivalent to a guaranty and that it would be consistent with the foregoing exception for an Edge corporation to extend unsecured acceptance credits to any such person in excess of the stated limits in reliance upon a participation agreement unconditionally obligating a bank to reimburse the Edge corporation for acceptance credits extended by it.

(Interprets and applies 12 U.S.C. 615)

By order of the Board of Governors, January 6, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-726 Filed 1-18-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-SO-31; Amdt. 39-1376]

PART 39—AIRWORTHINESS DIRECTIVES

Piper PA-28R Series Airplanes

Amendment 39-977 (35 F.R. 6491) AD 70-9-2 requires inspection or removal of spinners from PA-28R series airplanes. After issuing Amendment 39-977, the agency determined that a new satisfactory spinner had been designed and that airplanes incorporating this spinner would no longer require the inspection set forth in the airworthiness directive. Therefore, the airworthiness directive is being amended to provide for discontinuance of inspection after installation of the newly designed spinner and limitation of airplane serial numbers since this new spinner has been installed at the factory on later model airplanes.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-977 (35 F.R. 6491), AD 70-9-2, is amended as follows:

1. By amending the first sentence of the airworthiness directive to read: Applies to PA-28R-180 airplanes serial Nos. 28R-31071 and 28R-31073 through 28R-31266, and PA-28R-200 airplanes Serial Nos. 28R-35001 through 28R-35698, 28R-35700, 28R-35702, 28R-35704, 28R-35705, 28R-35709, and 28R-35711 through 28R-35713.

2. By adding the following paragraph:

(e) The recurrent inspections required in paragraphs (a), (b), and (d) may be discontinued upon installation of Piper spinner kit No. 760410V.

This amendment becomes effective January 20, 1972.

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

Issued in East Point, Ga., on January 6, 1972.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-737 Filed 1-18-72;8:46 am]

[Airspace Docket No. 71-SO-101]

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

Designation of Transition Area

On December 1, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 22848), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Newnan, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 30, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

NEWNAN, GA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Newnan-Coweta County Airport (lat. 33°19'06" N., long. 84°46'18" W.); within 2.5 miles each side of LaGrange VORTAC 053° radial, extending from the 5-mile-radius area to 19.5 miles northeast of the VORTAC.

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

Issued in East Point, Ga., on January 10, 1972.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.72-738 Filed 1-18-72;8:46 am]

[Airspace Docket No. 71-SO-176]

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

Alteration of Transition Area

On December 3, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 23076), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Atlanta, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 30, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Atlanta, Ga., transition area is amended as follows: "* * * long. 84°18'10" W. * * *" is deleted and "* * * long. 84°18'10" W.); within a 6.5-mile radius of Falcon Field Airport, Peachtree City, Ga. (lat.

33°21'23" N., long. 84°34'07" W.) * * *" is substituted therefor.

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

Issued in East Point, Ga., on January 10, 1972.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc. 72-739 Filed 1-18-72;8:46 am]

[Airspace Docket No. 71-WA-24]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Federal Airway and Jet Route Segments

On July 30, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14148) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would designate the United States portion of an airway and a jet route from Bellingham, Wash., to Williams Lake, British Columbia.

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

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., April 27, 1972, as hereinafter set forth.

a. In § 71.123 (37 F.R. 2009) VOR Federal Airway V-349 is added as follows:

V-349 from Bellingham, Wash., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

b. In § 75.100 (37 F.R. 2382) Jet Route No. 528 is added as follows:

Jet Route No. 528 (Bellingham, Wash., to United States/Canadian border).
From Bellingham, Wash., to Williams Lake, British Columbia, Canada. The airspace within Canada is excluded.

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

Issued in Washington, D.C., on January 12, 1972.

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

[FR Doc.72-740 Filed 1-18-72;8:47 am]

[Docket No. 11630, Amdt. 95-215]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of The Federal Aviation Regulations is amended, effective February 3, 1972 as follows:

1. By amending Subpart C as follows:

Section 95.1001 *Direct routes—United States* is amended to delete:

From, to and MEA

Portland, Fla., RBN; Chester INT, Fla.; *1,500. *1,300—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

LaGuardia, N.Y., VOR; Spring Valley INT, N.Y.; *3,000. *2,600—MOCA.
Greenville, Miss., VOR; Jackson, Miss., VOR; *2,000. *1,700—MOCA.
Lufkin, Tex., VOR; Palestine, Tex., LF/RBN; *2,400. *1,900—MOCA.
Los Banos, Calif., VORTAC; *Hollister INT, Calif.; **9,000. $9,000—MCA Hollister INT, eastbound. **5,800—MOCA.

Bahama Routes

Section 95.1001 *Direct routes—United States.*

54V is amended to read in part:
Palm Beach, Fla., VOR; *Basket INT, Fla.; **2,000. *2,500—MRA. **1,200—MOCA.
Basket INT, Fla.; Nimrod INT, Fla.; *2,500. *1,200—MOCA.
Nimrod INT, Fla.; Carey INT, Bahamas; *6,400. *1,200—MOCA.

Section 95.5000 *High altitude RNAV routes.*

From/To; total distance; changeover point distance from geographic location; track angle; MEA; and MAA

J801R is amended to delete:
Mesquite, Calif., W/P, Boulder City, Nev., VORTAC; 40; 20, Mesquite, 35°51'14" N., 115°14'03" W.; 50°/230° to COP, 50°/230° to Boulder City; 18,000; 45,000.
Boulder City, Nev., VORTAC; Paria, Ariz., W/P; 151.9; 76, Boulder City, 36°27'22" N., 113°24'14" W.; 53°/233° to COP, 55°/235° to Paria; 18,000; 45,000.

J801R is amended by adding:
Mesquite, Calif., W/P, Paria, Ariz., W/P; 191.9; 65, Mesquite, 36°07'33" N., 114°22'20" W.; 52°/232° to COP, 54°/234° to Paria; 18,000; 45,000.

J801R is amended to read in part:
Spot, Ohio, W/P; Ormsby, Pa., W/P; 103.6; 15, Spot, 41°58'44" N., 80°36'16" W.; 106°/286° to COP, 106°/286° to Ormsby; 18,000; 45,000.

J803R is amended to read in part:
Spot, Ohio, W/P, Ormsby, Pa., W/P; 103.6; 15, Spot, 41°58'44" N., 80°36'16" W.; 106°/286° to COP, 106°/286° to Ormsby; 18,000; 45,000.

J810R is amended to delete:
O'Hare, Ill., W/P, Kinderhook, Mich., W/P; 130.4; 65.2, O'Hare, 41°53'59" N., 86°27'13" W.; 92°/272° to COP, 96°/276° to Kinderhook; 18,000; 45,000.

J824R is amended to read in part:
Kappa, Ill., W/P, Joliet, Ill., VORTAC; 50; 25, Kappa, 41°11'36" N., 88°36'42" W.; 028°/208° to COP, 030°/210° to Joliet; 18,000; 45,000.

J826R is amended to read in part:
Bradford, Ill., W/P, Warren, Ill., W/P; 71.1; 30, Bradford, 41°26'10" N., 89°02'05" W.; 050°/230° to COP, 055°/235° to Warren; 18,000; 45,000.

J830R is amended to read in part:
Spot, Ohio, W/P, Ormsby, Pa., W/P; 103.6; 15, Spot, 41°58'44" N., 80°36'16" W.; 106°/286° to COP, 106°/286° to Ormsby; 18,000; 45,000.

J853R is amended to read in part:
Seal Beach, Calif., W/P, Kofa, Ariz., W/P; 209.2; 104.5, Seal Beach, 33°40'02" N., 115°58'05" W.; 079°/259° to COP, 081°/261° to Kofa; 18,000; 45,000.

J865R is amended to read in part:
Balsam, Ohio, W/P, Shiloh, Ohio, W/P; 71.4; 295°/115° to Shiloh; 18,000; 45,000.

J903R is amended to read in part:
Seal Beach, Calif., W/P, Kofa, Ariz., W/P; 209.2; 104.5, Seal Beach, 33°40'02" N., 115°58'05" W.; 079°/259° to COP, 081°/261° to Kofa; 18,000; 45,000.

J907R is amended to read in part:
Willcox, Ariz., W/P, Eloy, Ariz., W/P; 93.2; 46.6, Willcox, 32°34'56" N., 110°43'30" W.; 272°/092° to COP, 269°/089° to Eloy; 18,000; 45,000.
Eloy, Ariz., W/P, Brenda, Ariz., W/P; 123.3; 80, Eloy, 33°23'52" N., 113°01'02" W.; 284°/104° to COP, 283°/103° to Brenda; 18,000; 45,000.
Brenda, Ariz., W/P, Beaumont, Calif., W/P; 149.1; 74.5, Brenda, 33°55'22" N., 115°15'22" W.; 264°/084° to COP, 263°/083° to Beaumont; 18,000; 45,000.

J933R is amended to read in part:
Manila, Ariz., W/P, Drake, Ariz., W/P; 85.4; 20, Manila, 34°50'45" N., 111°13'06" W.; 263°/083° to COP, 261°/081° to Drake; 18,000; 45,000.
Wichita Falls, Tex., VORTAC, Texico, N. Mex., VORTAC; 213.4; 106.7, Wichita Falls, 34°15'39" N., 100°42'35" W.; 269°/089° to COP, 266°/086° to Texico; 20,000; 45,000.
Texico, N. Mex., VORTAC, Vaughn, N. Mex., W/P; 117.3; 58.6, Texico, 34°33'46" N., 104°01'06" W.; 263°/083° to COP, 260°/080° to Vaughn; 18,000; 45,000.

J935R is amended to read in part:
Jewett, N. Mex., W/P, Albuquerque, N. Mex., VORTAC; 105.5; 52.3, Jewett, 34°24'28" N., 107°33'55" W.; 029°/209° to COP, 031°/211° to Albuquerque; 18,000; 45,000.

J972R is added to read:
Waco, Tex., W/P, Austin, Tex., W/P.; 79.6; 39.8, Waco, 31°01'28" N., 97°29'07" W.; 187°/007° to COP, 188°/008° to Austin; 18,000; 45,000.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

*Spokane, Wash., VOR via N alter.; Int 052° M rad, Spokane VOR and 271° M rad, Mullan Pass VOR via N alter., northeastbound **9,000. southwestbound **8,000. *5,200—MCA Spokane VOR, northeastbound. **7,200—MOCA.

Section 95.6014 *VOR Federal airway 14* is amended to read in part:

Stout INT, Mo.; Richland INT, Mo.; *3,000. *2,400—MOCA.
Richland INT, Mo. Vichy, Mo., VOR; *3,000. *2,500—MOCA.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Sugar Grove INT, Va.; Speedwell INT, Va.; 7,700.
Speedwell INT, Va.; Max Meadows INT, Va.; 6,000.
Max Meadows INT, Va.; Pulaski, Va., VOR; 5,000.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Pineapple INT, Ala.; Montgomery, Ala., VOR; 2,000.
Pogo INT, Tex.; Corpus Christi, Tex., VOR; *1,600. *1,500—MOCA.
Corpus Christi, Tex., VOR; Copano INT, Tex.; *1,600. *1,500—MOCA.
Copano INT, Tex.; *Bayside INT, Tex.; **1,600. *3,500—MRA. **1,400—MOCA.
Corpus Christi, Tex., VOR via N alter.; Woodsboro INT, Tex., via N alter.; *1,600. *1,500—MOCA.

Section 95.6024 *VOR Federal airway 24* is amended to read in part:

*Alma City INT, Minn.; Hope INT, Minn.; **3,400. *4,300—MRA. **2,500—MOCA.

Section 95.6039 *VOR Federal airway 39* is amended to read in part:

Myrtle Beach, S.C., VOR; Fayetteville, N.C., VOR; *3,000. *1,600—MOCA. MAA—4,000.

Section 95.6055 *VOR Federal airway 55* is amended to read in part:

Beltrami INT, Minn.; Grand Forks, N. Dak.; VOR; *3,300. *2,300—MOCA.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Columbia, S.C., VOR; Florence, S.C., VOR; *2,000. *1,900—MOCA.

Section 95.6066 *VOR Federal airway 66* is amended to read in part:

Geronimo INT, Ariz.; Mescal INT, Ariz.; 9,500.
Mescal INT, Ariz.; Douglas, Ariz., VOR; 9,500. MAA—13,000.
Douglas, Ariz., VOR; Animas INT, N. Mex.; *11,000. *8,600—MOCA. MAA—13,000.

Section 95.6070 *VOR Federal airway 70* is amended to read in part:

Corpus Christi, Tex., VOR; Copano INT, Tex.; *1,600. *1,500—MOCA.
Copano INT, Tex.; *Bayside, INT, Tex.; **1,600. *3,500—MRA. **1,400—MOCA.

Section 95.6088 *VOR Federal airway 88* is amended to read in part:

Stout INT, Mo.; Richland INT, Mo.; *3,000. *2,400—MOCA.
Richland INT, Mo.; Vichy, Mo., VOR; *3,000. *2,500—MOCA.

Section 95.6094 *VOR Federal airway 94* is amended by adding:

Blythe, Calif., VOR; *Vicksburg INT, Ariz.; **6,000. *9,000—MRA. **5,600—MOCA.
Vicksburg INT, Ariz.; Gila Bend, Ariz., VOR; *9,000. *5,200—MOCA.

Section 95.6095 *VOR Federal airway 95* is amended to read in part:

*Ranch INT, Ariz., via W alter.; Winslow, Ariz., VOR via W alter.; **140,000. *14,000—MCA Ranch INT, northeastbound. **10,100—MOCA.

Section 95.6105 *VOR Federal airway 105* is amended to read in part:

Tucson, Ariz., VOR; Casa Grande, Ariz., VOR; *8,000. *6,700—MOCA.

Section 95.6119 *VOR Federal airway 119* is amended to read in part:

Burton INT, W. Va.; Uniontown INT, Pa.; 3,700.
Uniontown INT, Pa.; Indianhead, Pa., VOR; 5,000.

Section 95.6163 *VOR Federal airway 163* is amended to read in part:

Pogo INT, Tex.; Corpus Christi, Tex., VOR; *1,600. *1,500—MOCA.
Corpus Christi, Tex., VOR; Sinton INT, Tex.; *1,700. *1,500—MOCA.
Corpus Christi, Tex., VOR via W alter.; Mathis INT, Tex., via W alter.; *1,700. *1,500—MOCA.

Section 95.6172 *VOR Federal airway 172* is amended to read in part:

Charlotte INT, Iowa; Thomson INT, Ill.; *2,600. *2,100—MOCA.

Section 95.6231 *VOR Federal airway 231* is amended to read in part:

Charlo INT, Mont.; Kalispell, Mont., VOR; 10,000.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

Daytona Beach, Fla., VOR; *Roy INT, Fla.; **1,600. *2,500—MRA. **1,400—MOCA.

Section 95.6280 *VOR Federal airway 280* is amended to read in part:

*Caprock INT, N. Mex., via S alter.; Dora INT, N. Mex., via S alter.; **9,500. *9,000—MRA. *9,500—MCA Caprock INT, northeastbound. **5,500—MOCA.

Section 95.6289 *VOR Federal airway 289* is amended to read in part:

Stout INT, Mo.; Richland INT, Mo.; *3,000. *2,400—MOCA.
Richland INT, Mo.; Vichy, Mo., VOR; *3,000. *2,500—MOCA.

Section 95.6347 *VOR Federal airway 347* is amended by adding:

Ironwood, Mich., VOR; Houghton, Mich., VOR; *3,500. *3,100—MOCA.

Section 95.6448 *VOR Federal airway 448* is amended to read in part:

*Spokane, Wash., VOR; Clark INT, Idaho; northeastbound **9,000, southwestbound **8,000. *5,200—MCA Spokane VOR, northeastbound. **7,200—MOCA.

Section 95.6450 *VOR Federal airway 450* is amended to read in part:

Muskegon, Mich., VOR; Montague INT, Mich.; *2,400. *2,100—MOCA.
Montague INT, Mich.; Larrabee INT, Wis.; *2,600. *2,100—MOCA.

Section 95.6452 *VOR Federal airway 452* is amended by adding:

Eugene, Oreg., VOR; Cottage Grove INT, Oreg.; southeastbound 7,000. northwestbound 5,200.
Cottage Grove INT, Oreg.; Crystal INT, Oreg.; *10,500. *9,700—MOCA.
Crystal INT, Oreg.; Klamath Falls, Oreg., VOR; southeastbound 9,000. northwestbound 10,000.
Klamath Falls, Oreg., VOR; Tulelake INT, Calif.; southeastbound 14,000. northwestbound 9,000.
Tulelake INT, Calif.; Reno, Nev., VOR; *14,000. *10,100—MOCA.

Section 95.7084 *Jet Route No. 84* is amended to read in part:

From, to MEA and MAA

Mina, Nev., VORTAC; Delta, Utah, VORTAC; 20,000; 45,000. MEA is established with a gap in navigation signal coverage.

Section 95.7502 *Jet Route No. 502* is amended to read in part:

Annette Island, Alaska, VORTAC; Level Island, Alaska, VOR; 18,000; 45,000.
Level Island, Alaska, VOR; Sisters Island, Alaska, VORTAC; 18,000; 45,000.

Section 95.7507 *Jet Route No. 507* is amended to read in part:

Sisters Island, Alaska, VORTAC; Level Island, Alaska, VOR; 18,000; 45,000.
Level Island, Alaska, VOR; Annette Island, Alaska, VORTAC; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points.*

From; to—Changeover point: Distance; from

V–307 is amended by adding:
Biorka Island, Alaska, VOR; Sisters Island, Alaska, VOR; 50; Biorka Island.

Section 95.8005 *Jet routes changeover points.*

J–84 is amended to delete:
Mina, Nev., VOR; Currant, Nev., VOR; 65; Mina.

J–502 is amended to delete:
Annette Island, Alaska, VORTAC; Sisters Island, Alaska, VOR; 107; Annette Island.

J–507 is amended to delete:
Annette Island, Alaska, VORTAC; Sisters Island, Alaska, VOR; 107; Annette Island.

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on January 7, 1972.

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

[FR Doc.72-667 Filed 1-18-72;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-721, Amdt. 12]

PART 223—TARIFFS OF AIR CARRIERS: FREE AND REDUCED-RATE TRANSPORTATION

Familiarization Tours for Travel Agents to the Trust Territory and From Canada

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of January 1972.

By a notice of proposed rule making,[1] the Board proposed to amend Part 223 of its Economic Regulations (14 CFR Part 223), so as to permit air carriers to furnish familiarization tours for travel agents to the Trust Territory of the Pacific Islands and familiarization tours from Canada.

Comments in response to the notice were filed by certain members of the Air Transport Association of America (ATA) jointly,[2] and by Continental Air Lines,

[1] EDR-213, dated Sept. 29, 1971 (Docket No. 23866).

[2] Air West, Alaska Airlines, Inc., Allegheny Airlines, Inc., Aloha Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Hawaiian Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Trans World Airlines, Inc., and Western Air Lines, Inc.

Inc. (Continental). Upon consideration of the comments, we have determined to adopt the rule as proposed, except as modified herein.

ATA supports the proposal. However, Continental states that, because of the large distances involved in travel to, from, and within the Trust Territory, the maximum allowable duration of such tours should be set at 17 days, rather than the proposed 9 days, in order to allow for reasonable coverage of Trust Territory points. Continental also requests that § 223.2(f)(5) be amended, to either exclude tours to the Trust Territory from that provision requiring minimum group size of 15 travel agents, or, in the alternative, to reduce the minimum group size requirement for such tours to five travel agents. In support of this latter request, Continental says that if its suggested tour length of 17 days is adopted agents would have to be absent from their businesses for a longer time than many can afford and, by the same token, it would be difficult to replace agents who cancel a planned 17-day tour at the last minute. Additionally, Continental points to the limited capacity available on Trust Territory flights.

We have decided to accept Continental's argument that the unusually long distances involved in tours of the Trust Territory warrant a longer tour period than we presently permit; however, a length of 17 days would be excessive, and we have determined to allow a maximum length of 12 days for such tours. On the other hand, we have decided to deny Continental's request that the present minimum group size requirement be eliminated or reduced for these Trust Territory tours. We are not persuaded that a minimum group of 15 is unreasonable, particularly in view of the fact that carriers have in the past been able to obtain 15 agents for tours to the Trust Territory.[3] Moreover, Continental's suggestion that the minimum group size requirement be lowered for these tours is largely based on its primary suggestion that we should increase the permissible duration of these tours to 17 days, and we have not adopted the primary suggestion.

In consideration of the foregoing, the Board hereby amends Part 223 of its Economic Regulations (14 CFR Part 223), effective February 18, 1972, as follows:

1. Amend the definition of "domestic group familiarization tour" in § 223.1 to read as follows:

§ 223.1 **Definitions.**

* * * * *

(f) "Domestic group familiarization tour" means a tour organized and controlled by one or more air carriers for the purpose of promoting the sale of air transportation by familiarizing a group of travel agents with tourist attractions, accommodations, and recreational facilities in a particular area within the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands.

* * * * *

2. Amend § 223.2(f) to read as follows:

§ 223.2 **Persons to whom free and reduced-rate transportation may be furnished.**

* * * * *

(f) Any air carrier authorized to engage in interstate or overseas air transportation of passengers or foreign air transportation of passengers to points in Canada is hereby exempted from section 403 of the Act and Part 221 of the Board's Economic Regulations to the extent necessary to enable it to provide free or reduced-rate transportation to travel agents on domestic groups familiarization tours between points on its certificated routes within the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, or from points on its certificated routes in Canada to points on its certificated routes within the stated domestic areas, subject to the following conditions:

* * * * *

(2) The tour shall be limited to a minimum of 1 day in addition to time spent in air transportation and a maximum of 7 days' total time, and no more than 4 days shall be spent at any point; *Provided, however,* That tours to the Trust Territory of the Pacific Islands which originate in the continental United States, Puerto Rico, the Virgin Islands, or Canada shall be limited to a maximum of 12 days' total time.

* * * * *

(4) No part of the tour shall consist of transportation by any means to, be directed toward promoting travel to, or in any manner include or provide for visits to points outside the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands.

(Secs. 204(a), 403, 407, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended by 74 Stat. 445), 766 (as amended by 83 Stat. 103), 771; 49 U.S.C. 1324, 1373, 1377, 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-812 Filed 1-18-72;8:51 am]

[3] See Orders 70-11-109, Nov. 23, 1970; 71-4-118, Apr. 19, 1971; and 71-8-113, Aug. 27, 1971.

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8807 o.]

PART 13—PROHIBITED TRADE PRACTICES

Standard Educators, Inc. and James A. Melley, Sr.

Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1510 *Operations as special or other advertising;* Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1747 *Special or limited offers;* Misrepresenting oneself and goods—Prices: § 13.1780 *Combination sales;* § 13.1825 *Usual as reduced or to be increased.*

(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, Standard Educators, Inc., et al., East Hartford, Conn., Docket No. 8807, Dec. 6, 1971]

In the Matter of Standard Educators, Inc., a Corporation, and James A. Melley, Sr., Individually and as an Officer of Said Corporation

Order requiring door-to-door seller of encyclopedias of East Hartford, Conn., to cease misrepresenting to prospective purchasers that they were engaged in a national advertising campaign and offering a set of the New Standard Encyclopedia "free" or at a special price to specially selected persons who would endorse their products, and misrepresenting that certain books in a combination offer were free and the offer was limited to the time of the call.

The order to cease and desist, is as follows:

It is ordered, That respondents, Standard Educators, Inc., a corporation, and its officers, successors or assigns, and James A. Melley, Sr., individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of encyclopedias, books or publications or supplements in connection therewith or any other article of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That respondents' representatives or salesmen are conducting an advertising campaign; or that the purpose of the call or interview by respondents' representatives or salesmen is other than to sell encyclopedias, books, publications or supplements or services with respect thereto.

2. That purchasers may obtain a set of the New Standard Encyclopedia free, or at a reduction in price, merely by writing a letter of recommendation therefor, or an opinion thereon, displaying the product or keeping it up to date, or that any of the books sold by the respondents may be obtained by any means, other than the payment of respondents' then current price.

3. That any price at which respondents' books or publications are offered for sale is a special or reduced price, unless such price constitutes a substantial reduction from the price at which such publications were sold in substantial quantities for a reasonably substantial period of time by the respondents in the recent regular course of its business; or representing that any price is an introductory price.

4. That the opportunity to purchase respondents' books at a special introductory, special or reduced price is not available to the public generally; or that the purchasers of respondents' books are a specially selected group.

5. That certain books are given "free" with purchase of respondents' combination offer; or that purchasers from respondents of any combination offer only pay for part of such books.

6. That the payment of $3.95 or any other amount for respondents' annual yearbook or any other similar publication is an amount for handling and postage unless such stated amount is no more than the actual cost of the handling and postage.

7. That respondents' offer of books or other publications is limited as to time.

B. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' products; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' products.

It is further ordered, That the respondents herein shall, in connection with the offering for sale, the sale, or distribution of encyclopedias, books, or publications or supplements in connection therewith or any other article of merchandise, when the offer for sale or sale is made in the buyer's home, forthwith cease and desist from:

(1) Contracting for any sale whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after date of execution.

(2) Failing to disclose, orally prior to the time of sale and in writing on any trade acceptance, conditional sales contract, promissory note or other instrument executed by the buyer with such conspicuousness and clarity as likely to be observed and read by such buyer, that the buyer may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondents to collect any goods left in buyer's home and to return any payments received from the buyer. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to cancellation and during a reasonable period following cancellation.

(3) Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

(4) Provided, however, that nothing contained in this part of the order shall relieve respondents of any additional obligations respecting contracts made in the home required by Federal law or the law of the State in which the contract is made. When such obligations are inconsistent respondents can apply to the Commission for relief from this provision with respect to contracts executed in the State in which such different obligations are required. The Commission, upon proper showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That the respondents herein 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 respondents' 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, 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.

By "Final Order" further order requiring report of compliance, is as follows:

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 in which they have complied with the order to cease and desist.

Issued: December 6, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-727 Filed 1-18-72;8:45 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER A—GENERAL RULES

[Docket No. R-405: Order 445]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Statement of Policy Regarding Actions for Minimizing Consequences of Bulk Power Supply Interruptions or Shortages and Public Disclosure

JANUARY 11, 1972.

Despite the determined efforts of all electric utilities—investor owned, publicly owned, or cooperatively owned—to provide normal electric service, emergency situations do occur from time-to-time in the operation of utility facilities or equipment, and delays do occur in the construction or operation of planned electric utility facilities, any of which factors may precipitate power supply interruptions or shortage conditions. This order states policies which this Commission will observe under the cooperative procedures and voluntary action concepts of section 202(a) of the Federal Power Act, 16 U.S.C. 824a(a), in minimizing the consequences of bulk power supply interruptions or shortages.

Our intention, in stating these policies, is to provide general guidance to all who may be concerned with electric utility operations and are faced with conditions of electric power supply interruptions or shortages. In doing so, the Commission seeks to stimulate and encourage each electric utility which has not already done so, to develop contingency plans for operation in emergency situations; contingency plans for possible load reductions or curtailments; and contingency plans coordinating all such procedures with the procedures of other utilities so that bulk power transfers and coordinated operational arrangements may occur between and among systems to minimize the consequences of power interruptions or shortages.

Broad public understanding of the nature of emergency conditions and the steps which utilities plan to take in meeting them, will be beneficial both to operating utilities and to the electric consumers served. Notwithstanding the best intentioned long- and short-range electric utility planning procedures, any utility may be faced with the necessity of curtailing load in order to protect the electrical integrity of its system and the operational capability of bulk power supply facilities. This necessity may arise because of a localized shortage of generating or transmission capacity on a given system or more generalized conditions spanning a number of other interconnected systems. It can arise even though actions are taken to make full use of existing interconnection capacity and all unaffected utilities have provided the utmost assistance possible. Under these circumstances, the only course of action available to the affected utility, for purposes of system integrity, is to reduce the use of electricity by voluntary, or, if necessary, by involuntary, load curtailment procedures.

With foreknowledge of contingency planning, customers are provided with basic information needed for such actions as they may choose to take in protecting their respective interests under emergency conditions. Operating utilities are provided with a working factual predicate upon which their personnel may take prompt remedial operating actions to meet such conditions. Governmental authorities, Federal, State, and local, are provided with information which they may require in the discharge of any actions which they may be called upon to take in the exercise of governmental authority. For each of these interests, the Commission's established policy of forehandedness will be beneficial.

On November 4, 1970, the Commission issued a policy statement notice of investigation and proposed rule making with respect to developing emergency plans, in the above-entitled matter (35 F.R. 17428, November 13, 1970). That statement, issued under the Federal Power Act and Natural Gas Act, 16 U.S.C. 791a et seq., 15 U.S.C. 717 et seq., provides, in part, as follows (mimeo ed., page 2):

* * * upon an investigation to be conducted in this docket, the Commission proposes to amend Part 2, General Policy and Interpretations and appropriate parts of its regulations under the Federal Power Act * * * Chapter I, Title 18, Code of Federal Regulations, to issue rules establishing policies relating to the exercise of the Commission's emergency powers and to prescribe procedures for developing load relief and curtailment plans for * * * electric power systems * * * to meet future emergency requirements arising from short-term and extended gas and electric power shortages. * * *

The Commission's basic responsibilities in respect to electric service, under the Federal Power Act, are directed to adequacy and reliability of bulk power supply under interconnected system operation. Thus, contingency plans of all interconnected systems are of concern to this Commission. The touchstones of the Act, in this respect, are cooperative procedures and voluntary action concepts, all as implemented by the Commission's Statement of Policy, Reliability and Adequacy of Electric Service—Reporting of Data—Participation of Regulatory Personnel in Regional Councils, Order No. 383–2, 43 FPC 515.[1]

The substantive regulatory jurisdiction of this Commission, in regard to electric service, is directed primarily to interstate bulk power supply, transmission and sales at wholesale for resale. The Commission does have certain emergency power supply regulatory responsibilities. See sections 202 (b), (c), 205, 206, and 207; 49 Stat. 848, 849, 851, 852, 853; 16 U.S.C. 824a (b), (c), 824d, 824e, and 824f of the Federal Power Act. The Commission does not have regulatory authority to ration electric power among ultimate consumers.

A survey, dated January 20, 1971, by a committee of the National Electric Reliability Council, indicates that essentially all electric utility systems which are participating in five of the nine regional electric reliability councils have formulated contingency plans to curtail load on their systems in the event of power supply shortages.[2] In the other four regions,[3] some utilities have formal plans for curtailing load during emergencies, but many do not.

We note the recent report by the Interregional Review Subcommittee of the Technical Advisory Committee of the National Electric Reliability Council,[4] "Review of Overall Adequacy and Reliability of the North American Bulk Power Systems", dated September 1971. It sets forth seriatim recommendations, a number of which relate to the subject matter of this order, Report pp. I–5–I–7, and lists a number of methods of meeting emergency conditions arising from inadequate power supply which also appear in attached Appendix I infra, Report p. III–22.

All electric utility systems which are participating in the Commission's administratively established program of bulk power supply adequacy and reliability pursuant to Order No. 383–2, supra—investor owned, publicly owned, or cooperatively owned—that have not already done so, are hereby encouraged to develop prestated plans and procedures for actions to be taken under emergency conditions. For the general information of the electric utility industry, State and local governmental authorities and the affected public, the Commission's technical engineering staff has reviewed a number of generally recognized steps or procedures for load reduction or curtailment to minimize the consequences of bulk power interruptions or shortage. These are set forth below. These steps should be read coordinately with the Commission's recommendations on interconnected system operating practices and interconnected system maintenance practices which were set forth in the Commission's July 1967 Report to the President, Prevention of Power Failures, pp. 91–93, which are now largely implemented by the major electric systems throughout the United States and with the various programs and procedures as disclosed pursuant to the provisions of Commission Order No. 383–2, Appendix A, Item 9, footnote 1 supra.

Various of the comments received in response to the statement of policy and notice of investigation in this matter raised questions and objections relative to inter alia the scope of this Commission's regulatory jurisdiction to order load reduction or curtailment plans, expressed reservations concerning possible legal liabilities for systems which may undertake emergency action procedures in aid of other systems or consumers served, and cited the existence of a number of extant plans and procedures for dealing with operations under emergency conditions.

In stating the Commission's policy, we are mindful of the responses. Since we are not here prescribing load reduction or curtailment plans or other operating procedures, we find it unnecessary to pass upon the scope of the Commission's regulatory jurisdiction to prescribe specific plans or procedures. By this order we are merely stating our policy that utility systems should accelerate their development of contingency plans and procedures, and disclose them publicly. Subsequent consideration of those plans and procedures by this Commission for any regulatory purpose will be as appropriate in the given circumstances, and within the provisions of the Federal Power Act, to control rates, charges, services, classifications, rules, regulations, contracts and practices affecting jurisdictional interconnections, sales or services, sections 19, 20, 202(b), 205, 206, 207; 41 Stat. 1073, 1074; 49 Stat. 848, 849, 851, 852, 853; 16 U.S.C. 812, 813, 824a(b), 824d, 824e, 824f, and to act under emergency conditions, section 202(c); 49 Stat. 849; 16 U.S.C. 824a(c). Furthermore, since we are not here purporting to establish or promulgate standards of service or specific plans or procedures, we do not assess the adequacy of existing emergency plans or procedures which have been developed by participating utilities within or outside the various regional electric reliability councils.

The Commission further finds:

(1) With respect to the matters included in the general statement of policy adopted herein, this rule making proceeding has afforded interested persons notice and an opportunity to participate through the submission, in writing, of data, views and comments. Since the statement promulgated herein is a matter of general policy, further compliance with the provisions of 5 U.S.C. 553 relating to notice and hearing is not required.

(2) The effective date provisions of section 553 of title 5 of the United States Code do not apply with respect to the amendment herein adopted.

(3) It is necessary and appropriate for purposes of the Federal Power Act and in the public interest in administering that Act, to promulgate Commission policy in respect to contingency planning and minimizing the consequences of bulk power supply interruptions, or shortages, and in respect to the public disclosure and requested reporting of such plans, upon a voluntary basis, all in the manner hereinafter provided.

The Commission orders:

(A) Part 2, General Policy and Interpretations, Subchapter A, General Rules,

[1] The Commission's established voluntary reporting program pursuant to Order No. 383–2, provides, in part, as follows (18 CFR 2.11, Appendix A):

9. Information on the following coordinated regional practices: (To be reported initially and updated in subsequent reports when significant changes occur.)

a. Load shedding programs, including estimated steps of load reduction at various steps in declining frequency.

b. Emergency power and shutdown facilities to prevent damage to equipment if station loses system power.

c. Power facilities available for unit startup in the event of total loss of system power.

d. Availability of continuous power independent of system sources for communication and control facilities.

e. Provisions for sustaining the operation of generating units on local loads.

f. Programs for scheduling maintenance outages of generation and transmission facilities.

g. Programs for the selection, setting and maintenance of relays that affect the overall reliability of the interconnected network.

[2] Electric Reliability Council of Texas, Mid-America Interpool Network, Mid-Atlantic Area Coordination Group, Northeast Power Coordinating Council, and Southwest Power Pool.

[3] East Central Area Reliability Coordination Agreement, Mid-Continent Area Reliability Coordination Agreement, Southeastern Electric Reliability Council, and Western Systems Coordinating Council.

[4] This Subcommittee, a permanent organization created by the National Electric Reliability Council in October 1970, has as its general assignment review and evaluation of existing and proposed bulk power systems and operation under normal and emergency conditions, September 1971, Report, Appendix D. In addition to that Subcommittee, there are numerous committees, subcommittees and task forces within both the National Electric Reliability Council and the nine regional reliability councils which are concerned with system planning, emergencies and means to be taken to minimize their consequences.

Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new § 2.10 to read as follows:

§ 2.10 Actions for minimizing the consequences of bulk power supply interruptions or shortages.

(a) *Actions.* Each regional reliability council, and every participating electric utility system therein, investor owned, publicly owned or cooperatively owned, is encouraged to review existing mutual assistance and emergency condition operating procedures among control areas, and to promote the simplification of all such procedures where warranted. In addition, each regional council and participating system that has not already done so, is urged to establish contingency plans for operating in emergency situations, and contingency plans for possible load reduction or curtailment. Also, each regional reliability council and participating system that has not already done so, is urged to establish regional information centers wherein current information will be maintained concerning operable generation and transmission capacity and fuel supplies within the region so that during emergencies the affected utilities can immediately determine the extent and location of likely sources of assistance throughout the region. In this regard, appropriate communication systems and interregional liaison among neighboring regions and utility systems will serve to accomplish similar purposes on an interregional scale. Their full development is encouraged.

(b) *Public disclosure.* Each electric utility system, investor owned, publicly owned, or cooperatively owned, which participates in the work of a regional reliability council, is requested to furnish, upon a voluntary basis, to the Federal Power Commission such contingency plans or procedures as referred to above, for general informational purposes. We contemplate that each affected utility system will determine and state what it regards as its contingency plans or procedures; and that in doing so, various systems may choose to coordinate their activities and report their actions through an appropriate regional reliability council. We ask that two conformed copies of such plans or procedures of each participating system, whether reported individually or through a council, be supplied to this Commission. We ask that they be supplied within 60 days and that all contingency plans or procedures furnished be kept current. Upon request by state public service commissions or any other affected governmental authorities, each electric utility system furnishing its contingency plans or procedures to the Federal Power Commission, is requested to make two conformed copies of such plans and procedures available to the former.

(B) All responses requested and received in respect to this order and statement of policy will be maintained by the Secretary in a public file of the Commission for general informational purposes. Upon request, copies of any of those materials will be made available by the Commission's Office of Public Information upon payment of the Commission's document reproduction charge. Established Commission procedures, as set forth in § 1.36, rules of practice and procedure, 18 CFR 1.36, will apply.

(C) The Commission, in its continuing review of this general subject matter, will take such further actions as may be appropriate.

(D) The amendment herein prescribed shall be effective upon the issuance of this order.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

SUGGESTED GUIDE OR SEQUENCE OF STEPS FOR CONTINGENCY ARRANGEMENTS FOR EMERGENCY BULK POWER TRANSFERS AND UNDER EXTENDED SHORTAGES OF POWER TO MINIMIZE THE CONSEQUENCES OF BULK POWER SUPPLY INTERRUPTIONS OR SHORTAGES

For purposes of these stated sequence of events, emergency bulk power transfers are considered to be those which are needed under sudden shortages of power. They may result upon the occurrence of a sudden electrical or physical disturbance resulting in a loss of major bulk power facilities. Interconnected electric utilities are encouraged to aid systems experiencing deficiencies by supplying emergency power from available resources to the extent possible, consistent with the continued safe operation of the supply systems. Electric utilities are encouraged to make arrangements, in accordance with procedures or agreements reviewed or approved by appropriate state or local governmental authority, to curtail service to interruptible customers, where feasible, for short periods of time to assist other electric utilities experiencing power supply deficiencies when such action can preclude involuntary load curtailment of loads served elsewhere by the interconnected systems.

Extended shortages of power may result from prolonged delays causing power supply shortages due to, among other things, delays in bringing new bulk power units into service, shortages of fuel, and forced outages requiring long periods of time for repairs. All unaffected systems are encouraged to aid those utilities experiencing extended power shortages by supplying available electric power and energy available after meeting their own systems' needs. To achieve this objective, all electric utilities are encouraged to develop provisions in mutual emergency assistance agreements so as to allow a commitment for supply of capacity and energy that can be delivered during emergencies to adjoining utilities and others reached by the interconnected system, consistent with protection of service to the supplying system's customers, and which would preclude involuntary curtailment of firm loads upon the affected systems. Such provisions may involve voltage reductions or other operating techniques in accordance with procedures and compensatory arrangements approved by appropriate governmental agencies, i.e., where such operating techniques are feasible and consistent with the safe operation of the interconnected systems and will not impose undue adverse effects in service or customers' equipment, either physically or electrically.

Voluntary load curtailment. The time sequence of the following voluntary load reduction measures will depend upon system conditions that prevail during a power supply shortage and therefore is a matter for the judgment of the affected utility:

a. Reduction in the use of electricity by the affected power system for unessential loads such as warehouse lighting, office air-conditioning or heating, advertising displays, etc.;

b. Interrupt service to industrial customers in accordance with provision of contracts;

c. Request large commercial and industrial customers to reduce unessential load, preferably in accordance with prearranged voluntary agreements and magnitudes;

d. Reduce voltage only if its effectiveness as a load relief technique is known and after its impact on customers' equipment has been considered;

e. Request all customers to reduce unessential load. Public appeal by news media to reduce lights and air-conditioning has been effective during summer peak periods; and

f. Reduce voltage an additional amount if adverse impact on customer equipment can be avoided.

Involuntary load curtailment. a. Interrupt service to industrial customers to the extent that this can be done after considering the customers' load and system conditions;

b. Interrupt service to selected distribution feeders throughout the service area for short periods of time, alternating among circuits. Service to distribution feeders should be interrupted in accordance to classification—interrupt service to least essential loads first, lesser essential loads second, etc. Every effort should be made to provide continuous service to the essential public facilities—police, fire stations, hospitals, and the like; and

c. Records should be maintained so that during subsequent power shortages, care is taken to rotate interruptions throughout the service area in equitable manner.

[FR Doc.72-780 Filed 1-18-72;8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-25]

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Time Limits for Correction of Errors Involving Liquidation or Exaction

The purpose of this amendment is to clarify the exception in the provision in § 173.4(c)(2) relating to the time limits within which an error involving a liquidation or exaction made more than 9 months after the date of entry, or other transaction, must be brought to the attention of a district director of customs. The amendment substitutes the word "originates" for the word "is" following the word "erorr" in paragraph (c)(2) to make clear that where an error originates in the Customs liquidation, reliquidation, or exaction, the 1-year period provided for in paragraph (c)(1) of § 173.4 applies.

In § 173.4, paragraph (c)(2) is amended to read:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

* * * * *

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other

inadvertence meeting the requirements of paragraph (b) of this section must be brought to the attention of the district director:

* * * * *

(2) Within 90 days after liquidation or exaction when the liquidation or exaction is made more than 9 months after the date of entry, or other transaction, except that in cases where the error originates in the liquidation, reliquidation, or exaction, the 1-year limitation provided for in subparagraph (1) of this paragraph shall apply.

(Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

This amendment merely clarifies an existing Customs regulation. Therefore, the notice and delayed effective date provisions of 5 U.S.C. 553 are found to be inapplicable.

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (1–19–72).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved:

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–800 Filed 1–18–72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 **List of eligible communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Marin	Mill Valley				Jan. 21, 1972.
Florida	Palm Beach	Boca Raton				Do.
Iowa	Clayton	McGregor	I 19 043 5080 01	Iowa Natural Resources Council, Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Office of the Town Clerk, Town of McGregor, McGregor, Iowa 52157.	Do.
Do	do	Marquette	I 19 043 5310 01	do	Office of the Town Clerk, Town of Marquette, Marquette, Iowa 52158.	Do.
New Jersey	Monmouth	Matawan Township.				Do.
Pennsylvania	Chester	East Goshen Township.				Do.
Do	do	Pocopson Township.				Do.
Do	Montgomery	Upper Providence Township.				Do.
Virginia		Newport News				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: January 12, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–654 Filed 1–18–72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Marin	Mill Valley				Jan. 21, 1972.
Florida	Palm Beach	Boca Raton				Do.
Iowa	Clayton	McGregor	H 19 043 5080 01	Iowa Natural Resources Council, Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Office of the Town Clerk, Town of McGregor, McGregor, Iowa 52157.	Apr. 8, 1971.
Do	do	Marquette	H19 19 043 5310 01	do	Office of the Town Clerk, Town of Marquette, Marquette, Iowa 52158.	Apr. 16, 1971.
New Jersey	Monmouth	Matawan Township.				Jan. 21, 1972.
Pennsylvania	Chester	East Goshen Township.				Do.
Do	do	Pocopson Township.				Do.
Do	Montgomery	Upper Providence Township.				Do.
Virginia		Newport News				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: January 12, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–655 Filed 1–18–72;8:45 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 473–72]

PART 41—DESIGNATION OF ORGANIZATIONS IN CONNECTION WITH THE FEDERAL EMPLOYEE SECURITY PROGRAM

Revocation of Attorney General Procedures Regarding the Subversive Activities Control Board

This order revokes the regulations issued by the Attorney General pursuant to Executive Order No. 10450 of April 27, 1953 (3 CFR 1953 Supp.) in connection with the designation of organizations under the Federal Employee Security Program.

The procedures established by the Attorney General have been replaced by the issuance of Executive Order No. 11605 of July 2, 1971, which amended Executive Order No. 10450 and provided, among other things, that the Subversive Activities Control Board should conduct hearings and make determinations upon petition of the Attorney General as to whether certain organizations fall within the standards and criteria of the Executive order.

Implementing regulations were issued by the Subversive Activities Control Board and became effective on publication in the FEDERAL REGISTER of September 10, 1971, 36 F.R. 18280.

Part 41 of Chapter I of Title 28 of the Code of Federal Regulations is therefore revoked.

Dated: January 7, 1972.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.72–745 Filed 1–18–72;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71–100b]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Old Tampa Bay, Fla.; Correction

In F.R. Doc. 71–18970 appearing at page 25158 in the issue of Wednesday, December 29, 1971, the effective date was omitted inadvertently and should be added immediately after the citation to statutory authority to read "Effective date. This amendment shall become effective on January 29, 1972."

Dated: January 12, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72–757 Filed 1–18–72;8:48 am]

[CGFR 71–106b]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Nassau Sound, Fla.; Correction

In F.R. Doc. 71–18971 appearing at page 25158 in the issue of Wednesday, December 29, 1971, the effective date was omitted inadvertently and should be added immediately after the citation to statutory authority to read "Effective date. This amendment shall become effective on January 29, 1972."

Dated: January 12, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72–756 Filed 1–18–72;8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Status of Regulations for Certain Model Years

On November 25, 1971 (36 F.R. 22448), 45 CFR Part 1201, "Control of Air Pollution from New Motor Vehicles and New

Motor Vehicle Engines", was redesignated as 40 CFR Part 85. At that time, regulations applicable to 1975 and 1976 model year vehicles and engines were republished in their entirety in Part 85. No mention was made of the regulations which remain in effect for 1972, 1973, and 1974 model year vehicles and engines. In order to assist interested persons in locating regulations, the Agency has decided to publish an index to regulations applicable to the 1972 model year and to the 1973 and 1974 model years.

Accordingly, Part 85 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding the following note, effective upon publication:

NOTE: The regulations republished November 25, 1971 (36 F.R. 22448) are applicable to new motor vehicles and engines beginning with the 1975 model year, except that Subpart M is applicable beginning with the 1973 model year, and Subpart S is applicable to the 1973 and 1974 model years. Regulations applicable to model years prior to 1975 remain in effect and are not affected by the November 25 republication.

Regulations applicable to the 1972 model year appear at 45 CFR Part 1201 (Supp. 1971), as amended at 36 F.R. 5342 (March 20, 1971) and at 36 F.R. 16905 (August 26, 1971).

Regulations applicable to the 1973 and 1974 model years appear at 45 CFR Part 1201 (Supp. 1971), as amended at 36 F.R. 5342 (March 20, 1971), at 36 F.R. 12652 (July 2, 1971), at 36 F.R. 16905 (August 26, 1971), and at 36 F.R. 19697 (October 9, 1971).

(42 U.S.C. 1857g(a), as amended by sec. 15(c)(2), Public Law 91-604, 84 Stat. 1713)

Dated: January 13, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.72-747 Filed 1-18-72;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5152]

[Idaho 4373]

IDAHO

Withdrawal for Reclamation Project

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 (1970), it is ordered as follows:

Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Boise Project, Payette Division:

BOISE MERIDIAN

T. 7 N., R. 5 W.
Sec. 34, NW¼NW¼NW¼NW¼ and NW¼SW¼NW¼NW¼NW¼.

The areas described aggregate 3.125 acres in Payette County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JANUARY 10, 1972.

[FR Doc.72-728 Filed 1-18-72;8:45 am]

[Public Land Order 5153]

[Ore. 016183; Misc. 88702]

OREGON

Partial Revocation of Public Land Orders Nos. 3869 and 3530

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 3869 of November 12, 1965, which withdrew lands for use as public recreation areas is hereby revoked so far as it affects the following described Revested Oregon and California Railroad Grand land:

WILLAMETTE MERIDIAN

[Oregon 016183]

CHERRY CREEK RECREATION SITE

T. 27 S., R. 10 W.,
Sec. 18, N½ of lot 8.

The area described contains 20 acres in Coos County.

2. Public Land Order No. 3530 of January 29, 1965, which withdrew public lands for the protection of unique scientific and recreational areas is hereby revoked so far as it affects the following described Revested Oregon and California Railroad Grant land:

[Misc. 88702]

DOUGLAS FIR AREA

T. 27 S., R. 10 W.,
Sec. 18, lot 4.

The area described contains 22.12 acres in Coos County.

3. The land described in paragraph 1 of this order is included in the withdrawal made by Public Land Order No. 3530 of January 29, 1965, and will remain so withdrawn. At 10 a.m. on February 15, 1972, the land described in paragraph 2 shall be open to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant lands, including location under the U.S. mining laws. This land has been and continues to be open to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Portland, Oreg. 97208.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JANUARY 10, 1972.

[FR Doc.72-729 Filed 1-18-72;8:46 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Certain National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (1-19-72).

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

ARKANSAS

BIG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Big Lake National Wildlife Refuge, Manila, Ark., is permitted on all water areas. These areas, comprising 4,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport Fishing shall be in accordance with all applicable State regulations except for the following special conditions:

(1) The sport fishing season on the refuge extends year-round except for closure during duck hunting season.

(2) Limb lines may not be used.

(3) Trotline fishing permitted only at night.

FLORIDA

ST. MARKS NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Marks National Wildlife Refuge, St. Marks, Fla., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 50,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1972, through October 15, 1972.

(2) Fishing permitted one-half hour before sunrise until one-half hour after sunset, 7 days a week.

(3) Boats with gasoline engines to 4 horsepower and electric motors are permitted.

(4) Trotlines as permitted by State regulations are allowed except that lines shall be taken up prior to closing hour of fishing daily.

GEORGIA

OKEFENOKEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Ga. Certain isolated areas are closed and posted. The open areas are delineated on a map available at the

refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) Fishing permitted during daylight hours only.

(2) Boats with motors not larger than 10 hp., canoes and rowboats permitted.

(3) Artificial and live bait (except live minnows) permitted.

(4) Trotlines, limb lines, nets, or other set tackle prohibited.

(5) Persons entering refuge from main access points must register with the respective concessioner.

(6) Persons using the sill access ramp on the pocket are required to sign and register when they enter the swamp and again when they leave. Use of launching facilities is permitted as long as parking regulations are not violated. Parking regulations are posted at registration station.

LOUISIANA

DELTA NATIONAL WILDLIFE REFUGE

Sport fishing and sport shrimping on the Delta National Wildlife Refuge, Venice, La., are permitted only on the areas designated by signs as open to fishing. These open areas, comprising approximately 48,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing and sport shrimping shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing and sport shrimping season on the refuge shall be closed during the waterfowl hunting season.

(2) Fishing and shrimping permitted during daylight hours only.

(3) Air-thrust boats are prohibited.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Sport fishing, bow fishing, and herring dipping on the Mattamuskeet National Wildlife Refuge are permitted only on the areas designated by signs as open. These open areas, comprising 40,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. These activities shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Sport fishing and bow fishing seasons extend from March 1–November 1.

(2) As an exception to (1) above, the following areas are open to bank fishing during the entire year.

(a) The causeway (State Highway 94 which crosses the lake).

(b) In the immediate vicinity of the Lake Landing water control structure.

(c) In the immediate vicinity of the Outfall Canal water control structure at Mattamuskeet Lodge.

(3) Herring (alewife) dipping will be permitted from March 1–May 15 from the canal banks and water control structures in the immediate vicinity of the following locations:

(a) Waupoppin canal control structure—daylight hours only.

(b) Outfall canal control structure—daylight hours only.

(c) Lake Landing control structure—closed from sunset Sunday to sunrise Monday; sunset Tuesday to sunrise Wednesday; sunset Thursday to sunrise Friday. Open at other times.

(4) Boats and outboard motors without size limitations permitted. Airboats are prohibited.

(5) Certain areas will be posted as closed to motor boats to prevent disturbance in prime spawning zones.

SOUTH CAROLINA

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Sport fishing on the Carolina Sandhills National Wildlife Refuge, McBee, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 128 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from January 1, 1972, through December 31, 1972, on Lake Bee; from March 15, 1972, through October 15, 1972, on Martin's Lake, Lake 16, Lake 17, Pools A, B, C, D, G, and H, and the Black Creek Bridge areas on Wire Road, State Road 33, State Road 145, and U.S. Highway No. 1.

(2) Fishing permitted from one-half hour before official local sunrise until one-half hour after official local sunset.

(3) Boats with electric motors permitted only in Lake Bee, Lake 16, Lake 17, and Martin's Lake. Other type motors prohibited. The other areas are open only for bank fishing.

(4) Alcoholic beverages prohibited.

(5) All boats and fishermen must remain at least 30 feet away from wood duck nesting boxes or goose nesting areas. Nesting areas in Martin's Lake are closed and posted with Closed Area signs.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Public sport fishing, crabbing, and clamming, in accordance with Virginia regulations, are permitted on the Chincoteague National Wildlife Refuge, Va., subject to the following conditions:

(1) Open areas:

(a) Surf fishing—the entire beach front, except those areas designated by signs as areas closed to fishing.

(b) Fishing and crabbing—from the impoundment banks designated as open to fishing.

(c) Clamming—the area between high- and low-tide marks in Tom's Cove, except as posted closed.

(2) Permits: A permit is required for fishing from 10 p.m. to sunrise; no permit is required at other times.

The provisions of those special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 10, 1972.

[FR Doc.72-785 Filed 1-18-72;8:49 am]

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

PART 240—GROUNDFISH FISHERIES

Miscellaneous Amendments

On December 1, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 22841) to amend and republish, 50 CFR Part 240, Groundfish Fisheries. Comments were received and considered regarding the proposed amendments.

Pursuant to the public comments, it has been decided to amend Part 240, as it appeared in the January 6, 1971, publication (36 F.R. 158). The amendments will include those in the notice of proposed rule making which are necessary to implement the 1971 recommendations of the International Commission for the Northwest Atlantic Fisheries and those of a technical nature.

Effective date. The season opened on January 1, 1972, as set by the recommendations of ICNAF. These amendments implement the ICNAF recommendations and will be effective on date of publication in the FEDERAL REGISTER (1-19-72).

Accordingly Part 240 is amended as follows:

§ 240.3 [Amended]

1. Section 240.3(a) is amended by striking all subparagraphs and substituting the following:

(a) *Minimum mesh sizes:*

(1) In Subareas 1 and 2, no person shall fish for regulated species with a trawl net or nets, parts of nets, or netting of manilla or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section, of less than 5⅛ inches (130 mm.), or a trawl net or nets or parts of nets, or netting of material other than manilla or polypropylene twine unless it shall have a selectivity equivalent to that of a 5⅛-inch (130 mm.) manilla trawl net.

(2) In Subareas 3, 4, and 5, except as provided in subparagraph (3) of this paragraph, no person shall fish for regulated species with a trawl net or nets,

parts of nets, or netting of manilla or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section of less than 4½ inches (114 mm.) or a trawl net or nets, or netting of material other than manilla or polypropylene twine unless it shall have a selectivity equivalent to that of a 4½-inch (114 mm.) manilla trawl net.

(3) In Subarea 5, no person shall fish for yellowtail flounder with a net of manilla or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section, of less than 5⅛ inches (130 mm.), or a trawl net or nets, parts of nets, or netting of material other than manilla or polypropylene twine unless it shall have a selectivity equivalent to that of a 5⅛-inch (130 mm.) manilla trawl net.

2. Subparagraph (1) of § 240.3(d) is amended by inserting "and 2" after the "1" in the first line.

3. Subparagraph (2) of § 240.3(d) is amended by deleting the number "2" in the first line.

4. Paragraph (a) and subparagraphs (1) and (2) of paragraph (b) of § 240.6 are amended as follows:

§ 240.6 Catch limits.

(a) An annual limitation is placed on the quantity of haddock permitted to be taken from Division 4X and Division 4W of Subarea 4, and Subarea 5 by the fishing vessels of all Contracting Governments participating in the fishery during 1972.

(1) The annual catch in Subarea 4, Division 4X, shall not exceed 9,000 metric tons (round, fresh weight).

(2) The annual catch in Subarea 4, Division 4W shall not exceed 4,000 metric tons (round, fresh weight).

(3) The annual catch in Subarea 5 shall not exceed 6,000 metric tons (round, fresh weight).

(b) An annual limitation of 26,000 metric tons is placed on yellowtail flounder in 1972 taken by fishing vessels of Contracting Governments in Subarea 5.

(1) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area west of 69°00′ W., shall not exceed 10,000 metric tons to be taken in quarterly increments as follows:

January 1–March 31, 2,100 metric tons.
April 1–June 30, 1,000 metric tons.
July 1–September 30, 1,600 metric tons.
October 1–December 31, 2,100 metric tons.

(2) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area east of 69°00′ W., shall not exceed 16,000 metric tons to be taken in quarterly increments as follows:

January 1–March 31, 1,900 metric tons.
April 1–June 30, 3,550 metric tons.
July 1–September 30, 4,400 metric tons.
October 1–December 31, 2,600 metric tons.

* * * * *

5. Paragraph (a) of § 240.7 is amended to read as follows; and paragraph (b) is amended by changing "1971" to read "1972" on the second line.

§ 240.7 Open season.

(a) The open season for haddock fishing in Division 4X and Division 4W of Subarea 4, and Subarea 5, shall begin at 0001 hours of the 1st day of January and terminate at a time and a date to be determined and announced as provided in § 240.8; *Provided,* That the areas described in § 240.8 shall be closed to any vessel using gear capable of catching demersal species from 0001 hours, March 1, to 2400 hours May 31, 1972. This includes any trawl gear or similar devices, hook and line except as otherwise provided, and gill net.

* * * * *

6. Paragraph (a) (1) and (2) of § 240.8 are amended to read as follows:

§ 240.8 Closed seasons and areas.

(a) The Executive Secretary of the International Commission for the Northwest Atlantic Fisheries maintains records of the catches of regulated species made in Division 4X and Division 4W of Subarea 4 and Subarea 5 during the open season by the vessels of all contracting governments participating in the fishery.

(1) When the accumulative and estimated prospective catch of haddock and yellowtail flounder in each subarea making allowance for the incidental catch for the remainder of the year, equal 100 percent of the allowable catch permitted under § 240.6, the Executive Secretary shall notify each Contracting Government of that fact.

(2) If, after having given the notification provided in subparagraph (1) of this paragraph, the Executive Secretary determines, on the basis of new or further information, that the total catch will be less than 100 percent of the allowable catch, he may so inform each Contracting Government, stating the number of additional days fishing may be permitted in each subarea, such period to begin 10 days after the date of notification.

* * * * *

7. In § 240.8, paragraph (b) (1) and (2) (i) and (ii) are amended, and new subparagraph (2) (iii) is added as follows:

§ 240.8 Closed seasons and areas.

* * * * *

(b) It shall be unlawful for any person to use, during the period from 0001 hours, March 1 to 2400 hours, May 31, of 1972, fishing gear capable of catching demersal species, including any trawl gear or similar devices, gill net, or hook and line, in:

(1) Division 4X of Subarea 4, bounded by straight lines connecting the following coordinates in the order listed: 65°44′ W.—42°04′ N., 64°30′ W.—42°40′ N., 64°30′ W.—43°00′ N., 66°32′ W.—43°00′ N., 66°32′ W.—42°20′ N., 66°00′ W.—42°20′ N.

(2) Subarea 5, two areas bounded by lines connecting the following coordinates:

(i) 69°55′ W.—42°10′ N., 69°10′ W.—41°10′ N., 68°30′ W.—41°35′ N., 69°00′ W.—42°10′ N.,

(ii) 67°00′ W.—42°20′ N., 67°00′ W.—41°15′ N., 65°40′ W.—41°15′ N., 65°40′ W.—42°00′ N., 66°00′ W.—42°20′ N.,

(iii) Except that vessels using hooks having a gap of not less than 3 cm. (1⅛″) may fish in these areas without restriction.

* * * * *

§ 240.9 [Amended]

8. Paragraphs (a), (b), and (d) of § 240.9 are amended to add the words "or 4W" following the words "Division 4X" wherever they occur in the said paragraphs.

§ 240.10 [Amended]

9. Amend § 240.10(b) by deleting last two sentences which read, "Such logs shall be available for inspection by authorized officers of the Government of the United States. At the conclusion of each fishing trip, the duplicate log sheet shall be delivered to an authorized officer of the Government of the United States."

(Subsec. (a), of sec. 7, Northwest Atlantic Fisheries Act of 1950, 64 Stat. 1069; U.S.C. 986; as modified by Reorganization Plan No. 4, effective Oct. 3, 1970, 35 F.R. 15627)

Issued at Washington, D.C., and dated January 19, 1972.

R. L. CARNAHAN,
Deputy Assistant Administrator for Administration.

[FR Doc.72-746 Filed 1-18-72;8:47 am]

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Service, Department of Agriculture

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), § 354.1 of Part 354, Title 7, Code of Federal Regulations, is amended to read as follows:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapters D and G of Chapter I, Title 9 CFR, who requires the services of an employee of the Plant Protection and Quarantine Programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine Programs inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $14.64 per man-hour per employee on a Sunday and at the rate of $10.16 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States on a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration, and Naturalization Service, Public Health Service, and the Department of Agriculture. A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular workday beginning either at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies which requires the employee involved to perform additional travel may include a commuted traveltime period the amount of which shall be prescribed in administrative instructions to be issued by the Deputy Administrator, Plant Protection and Quarantine Programs for the areas in which the Sunday or holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such Sunday or holiday or overtime duty if such travel is performed solely on account such Sunday or holiday or overtime service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, certification, or quarantine services are performed at locations outside the metropolitan area in which the employee's headquarters is located, one-half of the commuted travel period applicable to the point at which the services are performed shall be charged when duties involve overtime that begins less than 1 hour before the beginning of the regular tour and/or is in continuation of the regular tour of duty. It will be administratively determined from time to time which days constitute holidays.

(b) The Plant Protection and Quarantine Programs inspector in charge in honoring a request to furnish inspection, laboratory testing, quarantine, or certification service, shall assign employees to such Sunday or holiday or overtime duty with due regard to the work program and availability of employees for duty.

(c) As used in this section—

(1) The term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) The term "private vessel" means any civilian vessel not being used (i) to transport persons or property for compensation or hire, or (ii) in fishing operations or in processing of fish or fish products.

(64 Stat. 561; 7 U.S.C. 2260)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (1-19-72), when it shall supersede 7 CFR 354.1, as amended May 1, 1971, and September 1, 1971.

The purpose of this amendment is to increase the hourly rate for overtime or holiday services from $9.40 to $10.16 and for services performed on Sunday from $13.20 to $14.64 commensurate with salary increases provided in accordance with the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, 85 Stat. 743) by Executive Order 11637 (36 F.R. 24911). Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-882 Filed 1-18-72;9:44 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1972 Crop of Upland Cotton; Base Acreage Allotments

COUNTY RESERVES

Section 722.468 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the county reserves for the 1972 crop of upland cotton. Such determinations were made initially by the respective county committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (29 F.R. 16210, 35 F.R. 19798, 36 F.R. 6907, 21529).

Notice that the Department was preparing to make 1972 crop determinations including county reserve allocations was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18412), in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

Since the establishment of county reserves requires immediate action by the county committees, it is essential that this section be made effective as soon as possible. Accordingly, § 722.468 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.468 County reserves for the 1972 crop of upland cotton.

(a) *County reserves.* The total county reserve for all uses established by the county committee shall not exceed 5 percent of the sum of the computed county allotment and allocations to the county from the State reserve for trends and abnormal conditions, unless the State committee approves a larger reserve not in excess of 10 percent of the sum of the computed county allotment and allocations to the county from the State reserve for trends and abnormal conditions. Such larger reserve has been approved by the Florida State ASC Committee for Taylor County. The county committee may determine that no reserve for any one or more uses, or all uses, specified under section 350(e)(1) of the act, shall be established. In addition, no part of the county reserve shall be apportioned to a farm to reflect new cropland brought into production after November 30, 1970. The following table sets forth the county reserves:

ALABAMA

County	County reserve (acres)	County	County reserve (acres)
Autauga	24.6	Blount	28.3
Baldwin	5.4	Bullock	51.0
Barbour	26.7	Butler	39.3
Bibb	3.9	Calhoun	11.8
Chambers	4.4	Lauderdale	32.5
Cherokee	6.5	Lawrence	30.8
Chilton	22.5	Lee	7.4
Choctaw	15.9	Limestone	32.8
Clarke	19.4	Lowndes	16.3
Clay	1.8	Macon	42.7
Cleburne	6.4	Madison	31.5
Coffee	11.1	Marengo	57.1
Colbert	6.7	Marion	66.7
Conecuh	14.2	Marshall	18.2
Coosa	2.7	Mobile	9.0
Covington	36.8	Monroe	26.5
Crenshaw	6.2	Montgomery	7.8
Cullman	54.4	Morgan	26.3
Dale	5.6	Perry	12.7
Dallas	33.2	Pickens	25.6
De Kalb	13.2	Pike	18.9
Elmore	13.6	Randolph	15.8
Escambia	20.1	Russell	21.6
Etowah	18.8	St. Clair	35.7
Fayette	12.5	Shelby	5.7
Franklin	23.5	Sumter	22.2
Geneva	4.6	Talladega	20.4
Greene	26.3	Tallapoosa	4.5
Hale	27.2	Tuscaloosa	13.5
Henry	17.1	Walker	3.5
Houston	46.3	Washington	12.0
Jackson	29.0	Wilcox	23.0
Jefferson	56.9	Winston	13.3
Lamar	23.0		

ARIZONA

Cochise	6.9	Pima	1.9
Gila	0	Pinal	8.2
Graham	7.6	Santa Cruz	0.6
Greenlee	1.4	Yavapai	0
Maricopa	105.4	Yuma	7.9
Mohave	2.0		

ARKANSAS

Arkansas	7.3	Lawrence	0.9
Ashley	0.3	Lee	27.8
Baxter	0	Lincoln	0.7
Bradley	0.7	Little River	3.5
Calhoun	0.2	Logan	0
Chicot	0.4	Lonoke	0.9
Clark	1.0	Marion	0
Clay	2.9	Miller	0.3
Cleburne	0.8	Mississippi	0.5
Cleveland	0.7	Monroe	1.6
Columbia	1.7	Nevada	1.7
Conway	0.4	Newton	0
Craighead	0.6	Ouachita	1.0
Crawford	0	Perry	0.1
Crittenden	18.5	Phillips	0
Cross	5.0	Pike	0.1
Dallas	0	Poinsett	0.3
Desha	1.3	Pope	0.7
Drew	6.3	Prairie	0
Faulkner	1.1	Pulaski	0.5
Franklin	0.1	Randolph	0.4
Fulton	0.3	St. Francis	14.1
Grant	0	Scott	0
Greene	25.1	Searcy	0.1
Hempstead	0.9	Sebastian	0.5
Hot Spring	0	Sevier	0
Howard	0.1	Sharp	0.4
Independence	0.2	Union	0.1
Izard	1.1	Van Buren	0
Jackson	5.2	Washington	0
Jefferson	0.6	White	2.0
Johnson	0.1	Woodruff	9.6
Lafayette	0.9	Yell	2.3

CALIFORNIA

Fresno	48.1	San Benito	2.3
Imperial	16.9	San Bernardino	1.1
Kern	29.6	San Diego	0.5
Kings	12.5	Stanislaus	0
Madera	31.7	Tulare	21.8
Merced	18.5		
Riverside	5.8		

FLORIDA

County	County reserve (acres)	County	County reserve (acres)
Alachua	0	Lafayette	5.0
Baker	0	Leon	0.9
Bay	0	Levy	0
Calhoun	0.7	Liberty	0.2
Columbia	3.5	Madison	8.3
Dixie	0	Okaloosa	15.4
Escambia	18.1	Santa Rosa	0.8
Gadsden	0.1	Suwannee	12.0
Hamilton	4.0	Taylor	0.9
Holmes	15.9	Union	0
Jackson	239.0	Walton	21.9
Jefferson	47.1	Washington	3.7

GEORGIA

Appling	4.8	Harris	2.4
Atkinson	2.2	Hart	15.5
Bacon	3.0	Heard	4.2
Baker	0	Henry	6.0
Baldwin	4.1	Houston	2.9
Banks	8.4	Irwin	8.8
Barrow	5.9	Jackson	5.3
Bartow	15.9	Jasper	0.5
Ben Hill	19.0	Jeff Davis	4.8
Berrien	5.4	Jefferson	2.1
Bibb	1.0	Jenkins	1.0
Bleckley	1.3	Johnson	15.5
Brantley	0.1	Jones	0
Brooks	56.4	Lamar	4.0
Bryan	1.3	Lanier	2.0
Bulloch	13.5	Laurens	2.5
Burke	1.5	Lee	2.8
Butts	2.0	Liberty	2.3
Calhoun	0.1	Lincoln	33.7
Candler	10.0	Long	3.7
Carroll	6.9	Lowndes	3.6
Catoosa	5.0	Lumpkin	0.5
Charlton	0	McDuffie	6.4
Chatham	0.2	Macon	6.9
Chattahoochee	0	Madison	18.8
Chattooga	11.9	Marion	9.0
Cherokee	0	Meriwether	8.3
Clarke	3.8	Miller	2.1
Clay	0.4	Mitchell	0.8
Clayton	4.7	Monroe	1.9
Clinch	0.3	Montgomery	16.7
Cobb	0.8	Morgan	3.8
Coffee	4.4	Murray	6.0
Colquitt	6.4	Newton	10.4
Columbia	0.7	Oconee	11.6
Cook	15.8	Oglethorpe	10.0
Coweta	53.6	Paulding	0.6
Crawford	3.9	Peach	0.7
Crisp	7.6	Pickens	0.4
Dade	2.2	Pierce	3.5
Dawson	0.4	Pike	1.0
Decatur	2.0	Polk	14.1
De Kalb	0.9	Pulaski	6.6
Dodge	3.5	Putnam	1.8
Dooly	2.3	Quitman	0.3
Dougherty	0.3	Randolph	0.6
Douglas	0.2	Richmond	2.0
Early	1.3	Rockdale	3.9
Echols	0.1	Schley	2.1
Effingham	13.8	Screven	2.7
Elbert	22.7	Seminole	3.2
Emanuel	11.8	Spalding	9.1
Evans	13.1	Stephens	0.3
Fayette	4.9	Stewart	4.1
Floyd	31.8	Sumter	3.5
Forsyth	0.8	Talbot	0.6
Franklin	14.5	Taliaferro	1.2
Fulton	3.1	Tattnall	19.2
Glascock	0.6	Taylor	4.5
Gordon	106.8	Telfair	1.0
Grady	11.3	Terrell	1.1
Greene	4.5	Thomas	4.1
Gwinnett	10.5	Tift	8.8
Habersham	0.1	Toombs	8.5
Hall	0	Treutlen	10.7
Hancock	2.1	Troup	3.3
Haralson	5.1	Turner	1.0
		Twiggs	7.5

GEORGIA—Continued

County	County reserve (acres)	County	County reserve (acres)
Upson	1.5	Wheeler	13.1
Walker	9.6	White	0.1
Walton	22.0	Whitfield	3.1
Ware	1.9	Wilcox	4.7
Warren	10.1	Wilkes	5.4
Washington	1.5	Wilkinson	5.1
Wayne	3.4	Worth	5.4
Webster	3.6		

ILLINOIS

Alexander	2.6	Pulaski	0.9
Massac	0		

KANSAS

Montgomery	0

KENTUCKY

Ballard	0	Graves	0
Calloway	0.2	Hickman	7.0
Carlisle	0	McCracken	0
Fulton	0.7	Marshall	0

LOUISIANA

Parish	Parish reserve (acres)	Parish	Parish reserve (acres)
Acadia	9.4	Livingston	0
Allen	5.2	Madison	18.8
Avoyelles	15.3	Morehouse	31.8
Beauregard	0	Natchitoches	20.2
Bienville	2.9	Ouachita	12.6
Bossier	15.3	Pointe Coupee	47.9
Caddo	29.8	Rapides	16.7
Caldwell	6.3	Red River	8.9
Catahoula	10.5	Richland	25.6
Claiborne	11.0	Sabine	0
Concordia	8.9	St. Helena	1.3
De Soto	10.0	St. Landry	26.5
East Baton Rouge	0.1	St. Marin	8.5
East Carroll	6.8	Tangipahoa	0.3
East Feliciana	0.9	Tensas	19.3
Evangeline	12.4	Union	6.1
Franklin	41.1	Vermilion	21.1
Grant	3.7	Vernon	0
Iberia	0.1	Washington	40.3
Iberville	0	Webster	0
Jackson	1.0	West Baton Rouge	2.3
Jefferson Davis	0	West Carroll	24.2
Lafayette	97.5	West Feliciana	2.2
La Salle	0	Winn	0.9
Lincoln	0		

MISSISSIPPI

County	County reserve (acres)	County	County reserve (acres)
Adams	1.9	Humphreys	5.5
Alcorn	42.9	Issaquena	1.9
Amite	6.6	Itawamba	51.4
Attala	27.6	Jasper	14.1
Benton	15.2	Jefferson	6.9
Bolivar	24.0	Jefferson Davis	18.3
Calhoun	12.8	Jones	6.5
Carroll	15.7	Kemper	51.7
Chickasaw	16.5	Lafayette	12.4
Choctaw	9.9	Lamar	1.5
Claiborne	6.6	Lauderdale	12.3
Clarke	6.7	Lawrence	10.2
Clay	10.5	Leake	32.2
Coahoma	2.0	Lee	87.2
Copiah	8.6	Leflore	10.9
Covington	16.5	Lincoln	2.0
De Soto	12.3	Lowndes	12.6
Forrest	0.7	Madison	15.8
Franklin	2.0	Marion	8.8
George	2.9	Marshall	27.7
Greene	2.5	Monroe	18.5
Grenada	29.9	Montgomery	8.0
Hinds	14.8	Neshoba	22.9
Holmes	15.9		

MISSISSIPPI—Continued

County	County reserve (acres)	County	County reserve (acres)
Newton	5.2	Tallahatchie	5.7
Noxubee	4.3	Tate	12.2
Oktibbeha	2.7	Tippah	57.9
Panola	16.8	Tishomingo	36.3
Pearl River	0	Tunica	12.2
Perry	0.3	Union	28.9
Pike	4.5	Walthall	19.6
Pontotoc	70.1	Warren	2.6
Prentiss	61.8	Washington	3.3
Quitman	8.3	Wayne	7.9
Rankin	14.2	Webster	17.0
Scott	18.3	Wilkinson	1.6
Sharkey	1.8	Winston	68.3
Simpson	11.2	Yalobusha	15.3
Smith	17.5	Yazoo	9.8
Sunflower	13.4		

MISSOURI

Bollinger	2.9	New Madrid	0.2
Butler	5.8	Pemiscot	1.8
Cape Girardeau	0.1	Ripley	6.4
Dunklin	5.1	Scott	8.6
Howell	0	Stoddard	0
Mississippi	4.5	Vernon	0

NEVADA

Clark	0	Nye	0

NEW MEXICO

Chaves	12.8	Lea	51.4
Curry	0.8	Luna	2.1
De Baca	2.2	Otero	0.5
Dona Ana	29.2	Quay	6.7
Eddy	3.1	Roosevelt	16.9
Grant	0	Sierra	0.7
Harding	0	Socorro	0.1
Hidalgo	0.2		

NORTH CAROLINA

Alamance	0.6	Johnston	102.7
Alexander	4.2	Jones	0
Anson	35.5	Lee	2.2
Beaufort	3.4	Lenoir	0.1
Bertie	6.3	Lincoln	7.5
Bladen	16.3	Martin	1.9
Brunswick	1.4	Mecklenburg	1.2
Burke	0.9	Montgomery	30.0
Cabarrus	26.3	Moore	12.3
Caldwell	0	Nash	1.8
Camden	0.1	Northampton	113.9
Careteret	0	Onslow	0.2
Catawba	0	Orange	0
Chatham	12.0	Pamlico	0.1
Chowan	2.0	Pasquotank	1.1
Cleveland	8.7	Pender	2.3
Columbus	15.5	Perquimans	4.6
Craven	1.8	Person	0
Cumberland	21.4	Pitt	46.4
Currituck	0	Polk	2.4
Davidson	1.6	Randolph	0.2
Davie	22.2	Richmond	6.8
Duplin	22.3	Robeson	2.9
Durham	0.1	Rowan	55.5
Edgecombe	0.6	Rutherford	7.8
Forsyth	0.1	Sampson	21.3
Franklin	184.2	Scotland	3.4
Gaston	8.2	Stanly	1.0
Gates	33.0	Tyrrell	2.5
Granville	0	Union	126.3
Greene	8.1	Vance	63.6
Guilford	0	Wake	27.4
Halifax	31.5	Warren	11.3
Harnett	1.8	Washington	1.4
Hertford	10.5	Wayne	9.3
Hoke	3.6	Wilkes	2.2
Hyde	1.0	Wilson	13.8
Iredell	77.9	Yadkin	0.1

OKLAHOMA

Adair	0	Caddo	29.1
Atoka	2.3	Canadian	7.2
Beckham	7.2	Carter	0.8
Blaine	14.0	Choctaw	1.5
Bryan	19.3	Cimmaron	0

OKLAHOMA—Continued

County	County reserve (acres)	County	County reserve (acres)
Cleveland	2.0	McIntosh	13.3
Coal	1.3	Major	6.7
Comanche	18.5	Marshall	1.9
Cotton	8.4	Mayes	1.4
Craig	0	Murray	1.0
Creek	1.7	Muskogee	24.9
Custer	11.5	Noble	0
Dewey	10.7	Nowata	0.5
Ellis	0.3	Okfuskee	5.3
Garfield	0	Oklahoma	0.1
Garvin	6.7	Okmulgee	12.6
Grady	10.2	Osage	0.2
Grant	0	Pawnee	5.2
Greer	6.0	Payne	3.0
Harmon	2.2	Pittsburg	4.4
Harper	0	Pontotoc	1.7
Haskell	1.1	Pottawatomie	0.4
Hughes	2.4	Pushmataha	0.1
Jackson	9.1	Roger Mills	14.4
Jefferson	4.0	Rogers	1.2
Johnston	2.6	Seminole	6.5
Kay	0	Sequoyah	0.3
Kingfisher	1.1	Stephens	9.0
Kiowa	20.7	Texas	0
Le Flore	3.1	Tillman	9.4
Lincoln	1.9	Tulsa	2.2
Logan	1.6	Wagoner	22.8
Love	5.4	Washita	25.7
McClain	5.9	Woodward	0
McCurtain	9.5		

SOUTH CAROLINA

Abbeville	41.0	Hampton	47.2
Aiken	18.0	Horry	39.9
Allendale	7.4	Jasper	8.5
Anderson	49.1	Kershaw	62.4
Bamberg	83.2	Lancaster	21.2
Barnwell	88.5	Laurens	97.6
Beaufort	0.5	Lee	47.9
Berkeley	54.9	Lexington	60.0
Calhoun	20.5	McCormick	17.2
Charleston	14.2	Marion	72.5
Cherokee	60.9	Marlboro	21.8
Chester	18.3	Newberry	23.0
Chesterfield	275.0	Oconee	47.8
Clarendon	58.1	Orangeburg	88.6
Colleton	46.4	Pickens	52.3
Darlington	65.6	Richland	32.7
Dillon	19.2	Saluda	45.3
Dorchester	17.3	Spartanburg	30.3
Edgefield	10.7	Sumter	38.7
Fairfield	11.2	Union	25.7
Florence	272.2	Williamsburg	221.8
Georgetown	8.3	York	6.2
Greenville	25.3		
Greenwood	106.9		

TENNESSEE

Bedford	7.0	Lawrence	31.6
Benton	2.0	Lewis	0.1
Bradley	0.9	Lincoln	19.0
Cannon	0.2	Loudon	0
Carroll	29.5	McMinn	0
Chester	16.3	McNairy	25.3
Coffee	0.5	Madison	12.4
Crockett	63.1	Marion	0
Dectaur	5.3	Marshall	1.1
Dickson	0	Maury	0
Dyer	23.9	Meigs	2.1
Fayette	38.9	Moore	0
Franklin	9.9	Obion	17.1
Gibson	52.2	Perry	0
Giles	9.7	Polk	4.5
Grundy	0	Rhea	0
Hamilton	0	Robertson	0
Hardeman	19.6	Rutherford	2.2
Hardin	10.5	Shelby	22.0
Haywood	29.3	Sumner	0
Henderson	31.1	Tipton	26.8
Henry	18.2	Warren	0
Humphreys	0	Wayne	12.4
Lake	14.4	Weakley	17.5
Lauderdale	24.6	Wilson	0

TEXAS

County	County reserve (acres)	County	County reserve (acres)
Anderson	0.6	Grayson	78.5
Andrews	3.8	Gregg	0
Angelina	0.6	Grimes	10.1
Aransas	1.1	Guadalupe	26.8
Archer	15.1	Hale	33.7
Armstrong	0.1	Hall	26.3
Atascosa	10.8	Hamilton	12.5
Austin	10.0	Hansford	0.2
Bailey	0.1	Hardeman	5.5
Bastrop	22.3	Harris	1.8
Baylor	12.1	Harrison	2.1
Bee	9.4	Hartley	0
Bell	26.3	Haskell	132.4
Bexar	4.8	Hays	6.9
Blanco	0	Hemphill	0.7
Borden	1.3	Henderson	0.2
Bosque	16.3	Hidalgo	105.1
Bowie	0.3	Hill	18.3
Brazoria	0.3	Hockley	26.4
Brazos	30.6	Hood	10.1
Brewster	0	Hopkins	0.4
Briscoe	3.2	Houston	112.9
Brooks	1.8	Howard	0.4
Brown	3.2	Hudspeth	2.2
Burleson	45.0	Hunt	28.4
Burnet	5.3	Hutchinson	0
Caldwell	5.1	Irion	0
Calhoun	21.7	Jack	2.2
Callahan	2.3	Jackson	1.7
Cameron	21.5	Jasper	0
Camp	0	Jeff Davis	0
Carson	0.5	Jim Hogg	4.5
Cass	6.0	Jim Wells	3.3
Castro	13.6	Johnson	72.1
Cherokee	1.9	Jones	27.9
Childress	5.5	Karnes	16.1
Clay	10.2	Kaufman	123.2
Cochran	0.4	Kendall	0
Coke	5.6	Kent	2.2
Coleman	67.2	Kimble	0
Collin	31.7	King	1.1
Collingsworth	0.4	Kinney	0.2
Colorado	10.5	Kleberg	5.5
Comal	0	Knox	27.6
Comanche	1.8	Lamar	13.2
Concho	26.1	Lamb	42.4
Cooke	15.8	Lampasas	4.2
Coryell	37.0	La Salle	0.6
Cottle	17.8	Lavaca	13.2
Crockett	0	Lee	1.4
Crosby	13.9	Leon	16.4
Culberson	1.3	Liberty	5.3
Dallas	102.4	Limestone	11.5
Dawson	26.4	Live Oak	14.1
Deaf Smith	8.4	Llano	1.1
Delta	20.1	Loving	0.1
Denton	11.4	Lubbock	90.0
De Witt	10.2	Lynn	8.0
Dickens	10.8	McCulloch	1.0
Dimmit	10.0	McLennan	69.2
Donley	6.8	McMullen	5.4
Duval	0	Madison	0.2
Eastland	1.1	Marion	0.3
Ector	1.1	Martin	10.8
Ellis	57.4	Mason	0.3
El Paso	0.3	Matagorda	6.5
Erath	6.3	Maverick	1.1
Falls	53.1	Medina	0.9
Fannin	24.3	Menard	0.2
Fayette	48.1	Midland	20.7
Fisher	2.2	Milan	21.5
Floyd	0.3	Mills	9.9
Foard	5.7	Mitchell	37.0
Fort Bend	1.9	Montague	9.4
Franklin	2.2	Montgomery	2.0
Freestone	2.2	Moore	0.2
Frio	5.0	Morris	0
Gaines	43.1	Motley	0
Garza	6.4	Nacogdoches	0.4
Gillespie	4.7	Navarro	157.7
Glasscock	1.2	Newton	0
Goliad	0.1	Nolan	26.4
Gonzales	0.4	Nueces	15.8
Gray	0.1	Ochiltree	0.6
		Oldham	0

TEXAS—Contnued

County	County reserve (acres)	County	County reserve (acres)
Palo Pinto	19.9	Swisher	1.3
Panola	1.7	Tarrant	15.5
Parker	17.5	Taylor	12.8
Parmer	15.7	Terry	6.3
Pecos	2.5	Throckmorton	0
Polk	0.5	Titus	0.1
Potter	0	Tom Green	76.4
Presidio	0.3	Travis	31.0
Rains	5.4	Trinity	4.7
Randall	0.3	Tyler	0.6
Reagan	3.5	Upshur	0.3
Red River	20.9	Upton	2.1
Reeves	4.5	Uvalde	0.1
Refugio	0.3	Val Verde	0.2
Roberts	0	Van Zandt	240.3
Robertson	37.1	Victoria	13.6
Rockwall	32.1	Walker	1.6
Runnels	59.6	Waller	7.1
Rusk	34.8	Ward	1.1
Sabine	0.4	Washington	3.4
San Augustine	2.4	Webb	0
San Jacinto	1.6	Wharton	36.4
San Patricio	14.7	Wheeler	20.9
San Saba	0.4	Wichita	11.5
Schleicher	1.6	Wilbarger	19.5
Scurry	3.4	Willacy	16.5
Shackelford	6.7	Williamson	41.2
Shelby	0	Wilson	7.6
Smith	0	Wise	10.1
Somervell	0.1	Wood	2.9
Starr	13.8	Yoakum	17.0
Stephens	0.6	Young	4.3
Sterling	2.9	Zapata	2.3
Stonewall	21.4	Zavala	3.8

VIRGINIA

Brunswick	3.8	Nansemond	4.9
Charlotte	0	Pr. Edward	0
Dinwiddie	1.7	Pr. George	0
Greensville	30.4	Southhampton	9.3
Isle of Wight	0	Surry	0
Lunenburg	0.3	Sussex	0
Mecklenburg	17.3		

(Secs. 350(e), 375, 84 Stat. 1373, 52 Stat. 66, as amended; 7 U.S.C. 1350(e), 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register (1–18–72).

Signed at Washington, D.C., on January 11, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–698 Filed 1–18–72;8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime, Night, and Holiday Inspection and Quarantine Activities at Border, Coastal, and Airports

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), § 97.1 of Part 97, Title 9, Code of Federal Regulations, is amended to read as follows:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and Subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period and shall pay the Administrator of the Animal and Plant Health Service at a rate of $14.64 per man hour per employee on a Sunday and at a rate of $10.16 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday, or holiday, or at any time after 5 p.m. or before 8 a.m. on a week day, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular work day beginning either at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies which requires the employee involved to perform additional travel may include a commuted travel time period the amount of which shall be prescribed in administrative instructions to be issued by the Deputy Administrator, Veterinary Services for the ports, stations, and areas in which the employees are located and shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from such overtime or holiday or Sunday duty if such travel is performed solely on account of such overtime or holiday or Sunday service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, quarantine or certification services are performed at locations outside the metropolitan area in which the employee's headquarters are

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

located, one-half of the commuted travel time period applicable to the point at which the services are performed shall be charged when duties involve overtime that either begins less than 1 hour before the beginning of the regular tour and/or is in continuation of the regular tour of duty: *Provided, however,* That periods of unscheduled overtime or holiday service performed by laboratory personnel shall be limited to Saturdays, Sundays, and holidays, and shall further be limited to hours which normally constitute a regular work day. It shall be administratively determined from time to time which days constitute holidays.

(b) As used in this section—

(1) The term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) The term "private vessel" means any civilian vessel not being used (i) to transport persons or property for compensation or hire, or (ii) in fishing operations or in processing of fish or fish products.

(64 Stat. 561, 7 U.S.C. 2260)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (1–19–72), when it shall supersede 9 CFR 97.1, effective May 1, 1971.

The purpose of this amendment is to increase the hourly rate for overtime services from $9.40 to $10.16 and for services performed on Sunday from $13.20 to $14.64 commensurate with salary increases provided in the Economic Stabilization Act Amendments of 1971 (Public Law 92–210, 85 Stat. 743, by Executive Order 11637 (36 F.R. 24911)). Determination of the hourly rate for overtime services and of the commuted travel time allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of January 1972.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.72-887 Filed 1-18-72;9:44 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 725]

TOBACCO

Proposed Determinations Regarding Farm Acreage Allotments and Marketing Quotas for 1970–71 and Subsequent Marketing Years

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department is preparing to amend § 725.72 of the regulations in this part pertaining to the lease and transfer of tobacco acreage allotments for flue-cured tobacco.

The purpose of amending the regulations is to clarify the provisions of § 725.72(p)(1) of the regulations to state with particularity the farm against which overmarketings would be charged in any case where a lease of allotment and quota is canceled because of fraud on the part of the owner or operator of the transferring farm but without fault on the part of the owner or operator of the receiving farm. In such a case, it is proposed that the regulations expressly state that the overmarketings would be charged against the farm from which the transfer of allotment and quota was made if such farm, after any such reconstitution as may be necessary as a result of the fraud, is assigned an allotment and quota against which the overmarketings could be charged; otherwise, the overmarketings would be charged against any other farm involved in the fraud having an allotment and quota after any reconstitution required by the fraud. Notwithstanding the above, the amount of overmarketings on the receiving farm which is in excess of the amount of quota involved in the canceled lease would be charged against the receiving farm.

Prior to issuance of the proposed changes in the regulations, data, views, or recommendations pertaining thereto which are submitted to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submission should be postmarked not later than 15 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in the manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on January 11, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-802 Filed 1-18-72;8:50 am]

Consumer and Marketing Service

[7 CFR Part 928]

PAPAYAS GROWN IN HAWAII

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Papaya Administrative Committee, established under the marketing agreement, and Order No. 928 (7 CFR Part 928; 36 F.R. 8925), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That expenses which are reasonable and likely to be incurred by the Papaya Administrative Committee, during the period January 1, 1972, through December 31, 1972, will amount to $162,500.

(b) That there be fixed, at six and one-half mills ($0.0065) per pound of papayas, the rate of assessment payable by each handler in accordance with § 928.41 of the aforesaid marketing agreement and order during the fiscal year beginning January 1, 1972.

(c) That unexpended assessment funds in excess of expenses incurred during the initial fiscal period ended December 31, 1971, shall be carried over as a reserve in accordance with the applicable provisions of § 928.42 of the marketing agreement and order.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: January 13, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.72-750 Filed 1-18-72;8:47 am]

[7 CFR Part 1004]

[Docket No. AO-160-A47]

MILK IN MIDDLE ATLANTIC MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Baltimore, Md., on September 21–22, 1971, pursuant to notice thereof issued on August 27, 1971 (36 F.R. 17586).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on November 26, 1971 (36 F.R. 22831) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under item 2, the 62d and 65th paragraphs are revised for clarification.

The material issues on the record relate to:

1. Adoption of an advertising and promotion program as authorized under Public Law 91–670; and

2. The specific terms and provisions necessary to implement such program under the Middle Atlantic order.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Adoption of an advertising and promotion program.* The order should be amended to provide for an advertising and promotion program to be administered by an agency organized by producers and producers' cooperative associations and financed by producer monies

deducted from the Middle Atlantic order pool proceeds.

The recent amendments to the Agricultural Marketing Agreement Act by Public Law 91-670 (Title I—Advertising Projects—Milk) approved January 11, 1971, provide that a Federal milk order may, with the approval of producers on the market, include provisions for establishing or providing for the establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products (hereinafter referred to in this part as the "advertising and promotion program" or "the program").

The hearing on this matter, the first for any Federal milk order under the provisions of Public Law 91-670, was requested by Pennmarva Dairymen's Cooperative Federation. The individual members of Pennmarva are Inter-State Milk Producers' Cooperative, Inc., Maryland and Virginia Milk Producers Association, Inc., and Maryland Cooperative Milk Producers, Inc. In addition to the proponent Pennmarva group, and the National Milk Producers Federation, the proposed program was supported on the record by Capitol Milk Producers, Lehigh Valley Cooperative Farmers, and Dairylea. Thus the program has the support of producer organizations representing a substantial majority of all producers in the market.

The National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, was actively involved in the legislative proceedings leading to the development and enactment of Public Law 91-670. Following the passage of this enabling legislation, the Federation established guidelines under which its members associations (including the proponent Pennmarva Federation) were encouraged to develop programs for individual order areas.

A representative for the National Milk Producers Federation, testifying at the hearing in support of a program for the Middle Atlantic order, pointed out that the amendment to the Act was envisioned as authority for a self-help program under which milk producers could collect and spend their own funds to improve their own markets for milk.

Under the proposal supported at the hearing and as herein adopted the advertising and promotion program will be funded through a 5 cents per hundredweight assessment each month on producer milk pooled during such month. Under this program, the market administrator will deduct the monies from the producer-settlement fund prior to the computation of the uniform prices for base and excess milk. Such moneys, except for certain reserves withheld to cover refunds and administrative costs incurred by the market administrator, will be turned over to and administered by an agency organized by producers and producers' cooperative associations. The agency will be responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act as prescribed in the attached amending order.

Any producer not desiring to participate in the program, upon proper application, will be eligible for refund of the assessments made against his proportionate share of total producer marketing of milk, such refunds to be made by the market administrator on a quarterly basis. Also, the program as adopted will allow adjustments or credits in connection with mandatory checkoff for similar types of programs, if required under authority of any State law.

The principal reasons cited by proponents for the establishment of an advertising and promotion program under the Middle Atlantic order were:

(1) *Decline in Class I sales.* Class I sales in the Middle Atlantic market (in the Delaware Valley, Upper Chesapeake Bay, and Washington, D.C., markets together, prior to the merger of these individual markets in August 1970) declined for the first 7 months of 1971 compared with the same periods for both 1969 and 1970. Total Class I sales during 1970 were about 46 million pounds less than during 1969.

Population in the Middle Atlantic marketing area, on the other hand, increased from the census years 1960 to 1970, 9.084 million persons in 1960 as compared to 10.891 million in 1970. It is this declining trend in the per capita consumption of milk in the Middle Atlantic marketing area which proponents believe will be diminished or reversed by increased expenditures for milk promotion and advertising under their proposed program.

(2) *The shifting trend from home delivery to store sales.* There has been a steadily increasing trend toward sales of milk out of stores and a decline in home deliveries in the Middle Atlantic area. Forty-four percent of the total milk sales in the former Delaware Valley order market was by home delivery for the month of November 1965 as compared with 24 percent for the same month in 1969. For the same periods, home delivery sales in the Upper Chesapeake Bay and Washington, D.C., areas decreased from 36 percent and 19 percent in 1965 to 25 percent and 11 percent in 1969, respectively.

This change from home delivery to a wholesale method of distribution, proponents pointed out, has placed milk in more direct competition with other foods and beverages. The consumer, when purchasing at stores, is confronted with many alternatives in choosing beverages and/or food in the diet. Most of these competing products, other than dairy products, are widely promoted and advertised. It is the proponents' position, therefore, that in such a competitive environment, dairy farmers must do a more comprehensive and effective job of promoting milk and milk products.

(3) *Lack of uniform dairy farmer participation in promotional programs.* The three cooperative members of Pennmarva form the largest cooperative group in terms of producer numbers serving the principal cities of Philadelphia, Baltimore, and Washington, D.C. The rate of payment for milk promotion by the three cooperatives individually is varied, ranging from 2 to 4 cents per hundredweight on member producer milk. These monies are paid over to the American Dairy Association of Atlantic. Another cooperative association serving the market pays the American Dairy Association of Atlantic at the rate of 3 cents per hundredweight on all its member milk. Payments to the Dairy Council by three of the four cooperatives are at the rate of 1 cent per hundredweight on member producer milk allocated to Class I. Payment by the fourth cooperative is at the rate of 1 cent per hundredweight on its Class I milk when matched by the dealer.

Two other cooperative associations representing producers on the market contribute to advertising and promotion programs through the use of the "positive letter"[1] at a rate of 3 cents per hundredweight.

(4) *Insufficient funds for promotional programs.* The total amount of money available to the Philadelphia, Baltimore, and Washington, D.C., units of the Dairy Council and to the American Dairy Association of Atlantic exceeded $1 million during 1970. Proponents pointed out, however, that not all of this money was available for the Middle Atlantic order area since the American Dairy Association of Atlantic area covers, in addition, the cities of Pittsburgh, Lancaster, Reading, Altoona, York, Scranton, Wilkes-Barre, and Williamsport in Pennsylvania, and Charleston, W. Va., all outside the general distribution area of Middle Atlantic order milk dealers.

Proponents contend that after allowing for approximately $210,000 of the total paid to the American Dairy Association of Atlantic for the basic program for the American Dairy Association and adjusting for promotions in the above-named cities, approximately $278,000 was available for advertising in the three cities of Philadelphia, Baltimore, and Washington, D.C. This, together with $385,000 available to the Dairy Council units, results in a sum of $663,000 that

[1] Under the "positive letter" procedure, when the market administrator determines, following a public meeting called for such purpose, that there is no substantial objection on the part of producers to a requested deduction for ADA or National Dairy Council, as the case may be, he notifies each producer of his determination and each handler of the amount of the deduction and the period during which deductions may be made. If the handler wishes to cooperate, he notifies each of his producers that the deduction will be made, unless the producer notifies him in writing that the deduction should not be made.

Each cooperating handler is required to maintain a file copy of the notice issued to his producers and the written notifications received from producers objecting to the deduction. Payments to ADA or NDC are verified by the market administrator by the audit of the handler's records.

was available for programs in the Middle Atlantic marketing area.

Proponents contend that these funds (about $0.06 per capita) are far below a $0.15 per capita expenditure that they believe to be (and that they say is supported by certain marketing research studies [2]) the optimum effective promotion level.

In view of the foregoing, it is concluded that a program essentially as producers propose, but with specified modifications discussed elsewhere in these findings, should be adopted.

2. *Terms and provisions.* The proposed rate of 5 cents per hundredweight on producer milk suggested by proponents is a reasonable assessment on the marketings of producers under the Middle Atlantic order and is adopted.

Based upon the volume of milk marketed in 1970 in the area encompassed by the present Middle Atlantic order, an assessment at the rate of 5 cents per hundredweight of producer milk would gross approximately $2,250,000 a year. Allowing for refunds to nonparticipating producers and for the necessary administrative costs, proponents estimate that the annual net revenue at the outset of the program, based upon 1970 milk volume, would approximate $2 million. This is more than double the sum now expended on producer-sponsored advertising and promotion programs in the Middle Atlantic marketing area.

The enabling legislation specifically provides that the promotion funds deducted from the pool proceeds "shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order."

A definition of "Agency" therefore is incorporated in the order to identify the administrative body organized by producers and producers' cooperatives that will be authorized to expend funds for advertising and promotional activities.

The Agency, under the terms prescribed herein, is responsible for administration of the terms and provisions of the program within the scope of its authority. Subject to the approval of the Secretary, it also is empowered to enter into contracts and agreements with persons or organizations as deemed necessary to carry out such program. In addition, the Agency may recommend to the Secretary amendments to the terms of the program, and make such rules and regulations as are necessary to carry out its stated objectives.

The powers, duties, and functions specifically assigned to the Agency under the terms herein adopted are of a nature and scope to provide participating producers on the market full and necessary authority through their representatives on the Agency to develop and administer advertising and promotion programs, designed to accomplish the purposes of Public Law 91–670.

Proponents stated that it was not their intent that control over the particular programs to be funded be "passed on" by the Agency to other organizations. However, the extent to which the Agency may wish to employ the services of existing organizations engaged in milk promotional activities is a matter to be determined by the Agency.

The Act states that the Agency "* * * may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order." By this authority, producers or producer groups in a market, through their Agency, may frame programs to meet their particular needs. For example, proponents suggested the need in the Middle Atlantic market for a milk and dairy product merchandising program. They envision the implementation of coordinated programs of market development, health education, food publicity, public relations and advertising to develop the full sales potential of milk.

A program of this scope, proponents averred, should include a competent staff of well-trained personnel able to coordinate the nutritional aspects of milk with the aspects of impulse buying, which is apparent in the buying pattern of store shoppers, to increase the sale of milk and milk products. Such a program likely would include promotional activities in food stores. The proponent witness was not sure that there were any organizations available which are fully prepared to handle such a comprehensive program at this time.

The guidelines concerning this matter advanced by the proponents and adopted herein substantially without change, are set forth in § 1004.107 of the amendments to the order included in this decision. Under the terms of the amending order, the Agency will develop and submit to the Secretary for approval programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation and administration of appropriate programs or projects, for advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of such organizations as the American Dairy Association, local Dairy Councils and the National Dairy Council and other such organizations for programs and projects where such activities benefit Order 4 producers; and

(c) The establishment, support, and conduct of research and development projects and studies to the end that the marketing and utilization of milk may be encouraged, expanded, improved, or made more efficient. The benefits of such programs should be available equally to all Order 4 producers.

There was no testimony on the record in opposition to these Agency guidelines, although one cooperative association, which represents dairy farmers marketing their milk in this and other northeast markets, testified in opposition to the program generally.

Agency members are to be selected from producers who actively support the program. Representation on the Agency as it relates to cooperatives may include, however, individuals not directly engaged in the production of milk, e.g., employees of the cooperative.

Each cooperative will be authorized one Agency representative for each full 5 percent of the participating producers (producers who have not requested refunds [3]) that such cooperative represents. For the purpose of meeting the 5 percent requirement or multiples thereof, any cooperative association, including a cooperative having less than the required 5 percent of the producers participating in the program, may elect to combine its participating membership with that of one or more other cooperatives.

The participating producer members of any cooperative association(s) having less than the required 5 percent that elects not to combine, as discussed above, and nonmember producers, together will be authorized one Agency representative for each full 5 percent that such producers constitute of the total number of participating producers under the order.

This procedure will result in a maximum of 20 members on the Agency. Such a number is large enough to provide broad producer representation and at the same time allow the Agency to operate in an effective manner.

Under the terms of the program as herein provided, the selection of cooperative representatives for the Agency will be entirely at the discretion of the cooperative(s). Each cooperative association authorized one or more representatives on the Agency shall notify the market administrator of the name and address of each representative selected who shall serve at the pleasure of the cooperative.

The market administrator will conduct a referendum annually to determine the representation on the Agency of participating nonmember producers and participating producer members of cooperative associations having less than the required 5 percent of the producers participating in the program and not electing to combine membership for purposes of selecting Agency representation.

Within 30 days after the effective date of the amended order and annually thereafter, the market administrator shall give notice to all such producers (members and nonmembers) of their opportunity to nominate Agency members and shall specify the number of representatives that such nonmember and member producers together are authorized.

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[2] A 1965 study by Clement, Henderson and Eley on the value of advertising and published in U.S.D.A. bulletin ERS No. 259, "The Effect of Different Levels of Promotional Expenditures on Sales of Fluid Milk"; and a followup study published in 1967 as U.S.D.A. Market Research Report No. 805, "Consumer Response to Various Levels of Advertising for Fluid Milk."

[3] Provision is made in the program adopted herein that for the purposes of the Agency's initial formation, all producers under the Middle Atlantic order would be considered as participating producers.

Following the closing dates for nominations, the market administrator shall anounce the nominees who are eligible for Agency membership and shall then conduct a referendum in which each individual producer (member or nonmember) shall have one vote.

Since cooperative associations may freely elect to combine or not combine for purposes of selecting Agency representation, it is provided in the case of a cooperative with less than the required 5 percent that does not combine, that the balloting of its participating producer members shall be on an individual basis, the same as nonmembers. This procedure will tend to promote equity among such members and nonmember producers in the selection of representation.

Election to Agency membership will be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes.

Each person selected for the Agency shall qualify by filing with the market administrator a written acceptance of his willingness and intention to serve in such capacity. It is anticipated that any eligible nominee included on the list, which the market administrator is required to circulate to the participating nonmember producers and certain participating member producers in the conduct of the referendum as discussed elsewhere in these findings, would advise the market administrator promptly if he were not willing to be a nominee. Notwithstanding, the possibility remains that a person elected to membership, or so designated by a cooperative, is unable to, or may not wish to accept the position. This requirement, therefore, is necessary in order that the market administrator will know whether or not the position has been filled. Such acceptance should be filed promptly after notification in order that the formation of the Agency can be prompt.

Proponents proposed a geographic basis for apportioning the number of representatives among the participating nonmember producers and participating members of the smaller cooperatives (less than the required 5 percent) who elect not to combine. Under their proposal the total of such producers would be divided by the market administrator into geographic areas each containing as nearly as possible 5 percent of the total number of producers under the order. The market administrator would then conduct a referendum to determine the representative from each such area. After the program had been in effect for 1 year, the market administrator would then be required to adjust the areas so as to include only 5 percent of those producers who had not requested refunds, and to make similar adjustments in subsequent years.

Such a procedure would impose additional duties on the market administrator at the producers' expense without any apparent benefits to the program. A geographic division of producers for the extensive area represented by the Middle Atlantic order milkshed could only be an arbitrary determination at best. Further, because of the relatively small percentage of producers for whom such representatives will be elected, there could be little, if any, significance in such arbitrary geographic division.

The term of office of each member of the Agency as herein adopted is 1 year, or until a replacement is designated by the cooperative association or is elected. Proponents indicated that Agency members selected by cooperatives likely would be continued in such capacity for more than the 1-year term, thus assuring a continuity of administration and operation that otherwise might not be obtained if the entire Agency membership were to change annually. Under such circumstances, the annual selection of the total Agency membership, as proposed, is reasonable.

It is possible that an elected representative may leave the market or otherwise be unable to complete his term of office. It is desirable, therefore, that some procedure be provided for filling the vacancy. It is concluded appropriate in such circumstance that the market administrator appoint as his replacement the then currently participating producer who received the next highest number of eligible votes in the referendum.

Actions to be taken by the Agency are of such importance that a majority of representatives should be required to be present at any meeting to constitute a quorum, and any action taken by the Agency should require a majority of concurring votes of those present and voting. The provisions herein adopted so provide.

The Agency's duties set forth in the order are generally necessary for the discharge of its responsibilities. It is intended that activities undertaken by the Agency shall be confined to those reasonably necessary to carry out its responsibilities as prescribed under the program. At the same time, it should be recognized that these specified duties are not necessarily all-inclusive and it may develop that there are other duties the Agency may need to perform.

Congress clearly contemplated that producer activities under Public Law 91–670 would be under direct surveillance of the Secretary. It was specifically provided that "all funds collected under this subparagraph (I) shall be separately accounted for and shall be used only for the purposes for which they are collected."

It is essential, therefore, that the Agency prepare and submit to the Secretary for his approval, budgets showing projected amounts of available funds and how such funds are to be disbursed. Proponents proposed that budgets be prepared and submitted for approval on a quarterly basis. The Agency must be in a position to develop firm plans and make commitments covering a sufficient forward period to insure a continuing viable program. A quarter is concluded to be the minimum practical period for achieving this end, and it is provided, therefore, that a budget shall be submitted to the Secretary for his approval prior to each quarterly period.

All the possible promotion and other authorized project activities, which the Agency may wish to pursue, cannot be anticipated at this time. Therefore, the authority for the Agency to establish programs and projects is purposely left broad and flexible to facilitate the timely development of such programs suitable to prevailing circumstances in the market.

Any promotion program or project the Agency may consider must comport with the terms and conditions of the order and be evaluated in terms of cost, the statutory objectives to be accomplished, the time required to complete the program or project and other such factors, in order to arrive at a sound decision as to whether the program or project is justified.

The required budget submissions will permit the Secretary to evaluate projected programs in terms of the declared policy of the Act and also will serve as policy guidelines for Agency members in the conduct of their operations for each ensuing quarterly period. This will be particularly helpful in the transition of Agency membership as the terms of office of individual members expire.

The Agency appropriately must follow prudent operating procedures in the furtherance of the best interests of producers. It is required therefore that it shall keep minutes of its meetings, and such other books and records as will clearly reflect all its transactions, and on request shall submit such books and records to the Secretary for his examination. It also shall provide for the bonding of all persons handling Agency funds with surety thereon satisfactory to the Secretary.

Proponents would have included specific terms that would require the Agency to publish annually an accounting of funds collected and the use made thereof, and to prepare and make available to producers, handlers, and consumers, statistics and information concerning the operation of the program. Since the activities of the Agency are under the direct supervision of the Secretary, it is not necessary to prescribe these additional requirements as suggested by proponents.

The Agency presumably will keep producers on the market fully informed of its milk promotional plans, projects, and activities. The degree of producer participation in the program, and thus its relative success, will be dependent in large part upon the interest and confidence it generates among producers. In view of these considerations, therefore, it does not appear necessary to prescribe specific informational releases to producers and other parties.

It is possible that the Agency may find it desirable to enlist the aid of individuals with special talents who might be helpful in program and project planning by virtue of their particular knowledge, skills, or expertise on matters directly involved with the advertising and

promotion programs. Provision is made, therefore, whereby the Agency, at its pleasure, may establish an advisory committee(s) of persons other than Agency members. Such a committee(s) may include, but would not necessarily be limited to, persons drawn from universities, land grant colleges, or extension services, public officials, and others in the dairy industry. Such committee(s) could make recommendations and participate in the deliberations of the Agency but would have no voting rights.

It would not be expected that the market administrator or his staff or other officials of the U.S. Department of Agriculture would serve on such a committee(s) since the activities of the Agency are under surveillance of the Department.

The Agency should be authorized to incur reasonable expenses in its administration of the program, including the employment and the fixing of compensation of any person necessary to the exercise of its powers and performance of its duties. For example, proponents' representative suggested that one full-time person might be needed to handle its recordkeeping and bookkeeping functions. The costs of office space also may be involved, or the Agency may find it necessary to retain the services of an attorney from time to time to assist in the preparation of contracts. Other Agency costs could be expected to involve miscellaneous office costs usually associated with a business office.

It is, of course, appropriate and necessary that Agency representatives be reimbursed for reasonable expenses incurred in attending meetings. This could involve the establishment by the Agency of per diem and mileage rates and would include expenses for meals and lodging. It would be unreasonable to require members of the Agency to bear such expenses incurred in the interest of all producers on the market.

It was proposed, and it is here adopted, that the amount of money utilized by the Agency for its expenses in administering the program shall not exceed 5 percent of the funds received by the Agency from the market administrator. This establishes a reasonable limitation on Agency costs and assurance to producers that the funds collected from the pool will be expended primarily on advertising and promotion.

The Agency, of course, is handling funds otherwise payable to producers. The Agency members, therefore, should have assurance that they will not be personally liable for the impact of their official acts except for willful misconduct, gross negligence, or any acts which are criminal in nature.

To insure that Agency funds are used only for the purpose contemplated by the Congress, it also is provided that Agency funds shall not be used for political activity or for influencing governmental policy or action.

It is possible that at some later date producers could request termination of the program, or that such provisions could be terminated by the Secretary on a finding that they no longer tend to effectuate the purposes of the Act.

In the event that the provisions of the advertising and promotion program are terminated in their entirety, any remaining uncommitted funds applicable thereto should revert to the producer-settlement fund for distribution to producers since such monies are derived solely from funds otherwise due producers.

There were conflicting views expressed at the hearing concerning what funds should be used to cover expenses incurred by the market administrator in the conduct of referenda as discussed hereinbefore and costs involved in making refunds to producers who do not wish to participate in the program.

A suggestion was made that market administrator's expenses in conducting referenda among producers not represented by qualified cooperative associations, and in the performance of other duties related thereto, be charged against the marketing service fund derived from an assessment on nonmember producers under other provisions of the order. The principal witness for the proponents, who concurred with this procedure, suggested additionally that the market administrator's cost related to refunds appropriately might be charged against the payments made by handlers to the market administrator to cover the expense of administering the order.

Neither of the two funds (the marketing services fund or the administrative fund) should be charged with the costs directly related to the administration of advertising and promotion program. The program is producer originated and should be self-sustaining. The expenses attendant to its administration appropriately should be borne by producers.

The statutory authority under Public Law 91–670 supports this position and makes it clear that this is intended to be strictly a producer program. In part, the law states that "Establishing or providing for the establishment of * * * programs * * *, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. * * * All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purposes for which they were collected."

As adopted herein, all administrative costs associated with the program would be reimbursable to the market administrator from the advertising and promotion program funds before such funds are turned over to the Agency.

Much interest was evidenced by the several hearing participants in the procedure by which producers not wishing to participate in the program could request and be granted refunds.

Public Law 91–670 provides that: "Notwithstanding any other provision of this Act, as amended, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order."

As adopted herein, any producer desiring a refund on the assessments made against his marketings must submit to the market administrator his signed request in the form prescribed by the market administrator within the first 15 days of the month (December, March, June, or September) preceding the calendar quarter for which refund is requested.

Congress clearly intended that producers not wishing to participate in the promotion program could get their money refunded with no unnecessary impediments. It must be recognized, however, that there is necessarily a significant cost in making refunds and, in addition, that any promotion program could have only limited success unless the monies to be available for it are known in time to make firm forward plans and commitments.

Refunding on a quarterly basis, rather than on a monthly basis as suggested by the representative of one cooperative association on the market, will result in significant savings in administrative cost by reducing by eight the number of times each year the market administrator would be required to make refunds.

The quarterly refund procedure, together with the requirement that refund requests be made within the first 15 days of the month immediately preceding the calendar quarter, will enable the Agency to make quarterly budget estimates for each ensuing calendar quarter.

Proponents held that a producer, in filing his request for refund, should be required to have his signature notarized, ostensibly to establish the bona fide request of the individual producer and to deter other parties from promoting mass refund requests. It seems obvious that the success of the program is directly dependent on proponents' ability to convince individual producers of the need to participate in such an advertising and promotion program and on the results achieved under the program. In the absence of further evidence for a requirement of signature notarization, such requirements must be regarded as unnecessary to the refund procedure and is therefore denied.

Proponents, at the hearing, recognized that the refund request procedure as proposed (e.g., a request filed with the market administrator during the first 15 days of the month preceding the beginning of each calendar quarter) could not accommodate new producers who might not wish to participate in the program during their first few months on the market. They suggested, therefore, that, until the initial quarter for which a new producer could comply with the regular refund request procedure, such producer be granted a refund on his marketings upon proper application filed with the market administrator at any time during the period. This modification in the refund procedure, they pointed out, could also assist in implementation of the program on an earlier date than might otherwise be feasible.

This suggested flexibility in the refund procedure will accommodate the effectuation of the program at the earliest possible date, since it will make it unnecessary that the program be initiated at the beginning of a calendar quarter and with adequate prior notice to accommodate the filing of refund requests during the first 15 days of the month preceding such quarter. Such procedure is necessary also in order that new producers will not be denied refunds during their first few months under the order because of their inability to comply with the quarterly refund request procedure.

Proponents acknowledged the need for the market administrator to advise each producer promptly of the advertising and promotion program when effectuated and thereafter with respect to new producers. To insure that producers have an awareness of the program, it is provided that the market administrator shall accomplish such notification by forwarding to each producer a copy of the amended order.

Proponents recognized the possibility that the production units of some producers under the order could be in States that have mandatory checkoffs for similar advertising and promotion programs under State law. They held that in such circumstances a double assessment was not intended and that such producers appropriately should be refunded from the program under the Federal order an amount equal to such State assessment, but not in excess of the 5-cent assessment under this program. This procedure is provided for in the statute and should be adopted.

It cannot, of course, be known at this time exactly what specific conditions and procedures might be contained in legislation of various States. For example, the enabling statute in New York envisions that the producer will be exempt from contributions to the State program if he is participating in an advertising and promotion program under a Federal order. Should such a State program be initiated, it seems apparent that close liaison would be required between the State and Federal programs to fully implement the interests of both. The provisions dealing with refund procedure anticipate this and provide, therefore, that the market administrator on proper request from the producer shall refund to such producer or on specific authorization from such producer shall make payment of the refund to a State, from funds held in reserve by the market administrator for this purpose.

Proponents held that the matter of refunds in recognition of mandatory deductions from individual producer payments for State advertising and promotion programs should be a responsibility of the Agency rather than of the market administrator. However, it is not apparent from the record what possible benefit could accrue from a divided responsibility between the market administrator and the Agency for refunds. Moreover, refunded moneys have no relationship to the purposes for which the Agency is formed. Since refunds to individual producers may vary, dependent on whether there has been a mandatory deduction from such producers' payments under a State program, there necessarily exists the probability that a division of responsibility for refunds would make it impossible to effectively maintain necessary confidentiality regarding the status of individual producers under the program.

The Agency could not have the necessary information to make refunds except as it was obtained from the market administrator. By making the market administrator wholly responsible for all refund activities, the overall administrative cost to the program will be minimized, and conversely, the funds available to the Agency for advertising and promotion will be maximized.

Proponents suggested that the order require a public listing of nonparticipating producers in order that such individuals may be visited for purposes of soliciting their support of the program. Since this is a voluntary program, there should be no provision for public listing, or disclosure by the market administrator to any cooperative regarding the status of its producer members, that possibly could cause embarrassment to a producer who does not elect to be part of the program. It will be encumbent upon the participants, through their Agency, to conduct programs in a manner and of a nature to set the climate for maximum participation by producers.

Another provision of the program as proposed dealt with the matter of confidential treatment of information by Department personnel, Agency personnel, and others. The general regulations Title 7, Part 900, and specifically §§ 900.210 and 900.211 thereof specify conditions for disclosure of information and the penalties applicable to any Department official violating such conditions. Further provisions relating specifically to information acquired by Department personnel in administration of the advertising and promotion program, therefore, are not necessary. Since the program as herein adopted provides that the market administrator will handle all refunds, it is not apparent that Agency representatives and personnel or other individuals could acquire information relating to the business or property of any person which was furnished by, or obtained from, such person pursuant to the provisions of the order. Under such circumstances there is no need for the proposed provision on confidentiality.

To implement the advertising and promotion program appropriately, it is necessary that certain provisions of the current order be modified. The procedure for computing the weighted average price (§ 1004.71) must be modified by the addition of a new paragraph (c) prescribing the deduction of an amount computed by multiplying by 5 cents the total hundredweight of producer milk. It is through this procedure that the advertising and promotion funds are reserved in the producer-settlement fund. This, of course, has the result of reducing the weighted average price by approximately 5 cents.

A modification is also necessary in the procedure for computing the uniform prices for base and excess milk to insure that the cost of the advertising and promotion program will be divided pro rata between base and excess milk rather than be placed on base milk alone. This is accomplished by modifying subparagraphs (1) and (2) of § 1004.72(a) to provide that the multiplier shall be in each case the specified class price less 5 cents.

It also is necessary that appropriate corollary changes be made in §§ 1004.62 and 1004.85 in order that the obligation of a partially regulated handler (as computed pursuant to § 1004.62(b)(5)) and the obligation of any handler with respect to other source milk allocated to Class I (on which the pool obligation is the difference between the Class I and weighted average price pursuant to § 1004.85(b)(2)) will not be increased by 5 cents because of the change in the weighted average price.

It is recognized further that, unless otherwise provided for, an audit adjustment involving any handler's balance of payment to or from the producer-settlement fund could also require adjustments in the monies to be turned over to the program or refunded to producers, as the case may be. However, such adjustment normally would not involve sufficient volumes of milk to significantly affect the monies available to the program. For this reason and because of the substantial administrative costs that would be involved in reflecting audit adjustments in adjusted payments to the program, it is intended that such audit adjustments shall not result in adjustment of funds available to the program.

Other order modifications not hereinbefore specifically discussed are necessary and incidental to insure the proper functioning of the order to accommodate the promotion program as here established.

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.

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.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Middle Atlantic marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL OF THE ADVERTISING AND PROMOTION PROGRAM; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted to determine whether the proposed advertising and promotion program, as specified in the attached order, regulating the handling of milk in the Middle Atlantic marketing area is separately approved or favored by the producers, as defined under the terms of the order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be October 1971.

The agent of the Secretary to conduct such referendum is hereby designated to be Joseph D. Shine.

Signed at Washington, D.C., on January 14, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Middle Atlantic Marketing Area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

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

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on November 26, 1971, and published in the FEDERAL REGISTER on December 1, 1971 (36 F.R. 22831) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications:

1. In § 1004.110, paragraph (a) is redrafted for clarification and a new paragraph (d) is added.

2. In § 1004.111(b), subparagraph (3) is revised for clarification.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. Section 1004.60 is revised as follows:

§ 1004.60 Producer-handler.

Sections 1004.40 through 1004.46, 1004.50 through 1004.52, 1004.62 through 1004.65, 1004.70 through 1004.72, 1004.80 through 1004.89, and 1004.100 through 1004.110 shall not apply to a producer-handler.

2. In § 1004.62, paragraph (b)(5) is revised as follows:

§ 1004.62 Obligations of a handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

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

3. In § 1004.71, a new paragraph (c) is added as follows:

§ 1004.71 Computation of weighted average price.

* * * * *

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

4. In § 1004.72, paragraphs (a) (1) and (2) are revised as follows:

§ 1004.72 Computation of uniform prices for base milk and excess milk.

* * * * *

(a) * * *

(1) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price less 5 cents.

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(2) Multiply the remaining hundredweight quantity of excess milk by the Class I price less 5 cents; and

* * * * *

5. In § 1004.85, paragraph (b)(2) is revised as follows:

§ 1004.85 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the weighted average price plus 5 cents, adjusted by the applicable location differential on nonpool milk pursuant to § 1004.82(b) (not to be less than the value of the Class II price) with respect to other source milk for which values are computed pursuant to § 1004.70(e).

6. Immediately following § 1004.89, a new centerhead and new §§ 1004.100 through 1004.112 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1004.100 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1004.111(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1004.101 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1004.103(b) is authorized one Agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1004.103(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1004.102 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1004.103 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating membership and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1004.101 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1004.104 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1004.105 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1004.100;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1004.100 and 1004.107.

§ 1004.106 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1004.100 and 1004.107 of this part;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1004.107 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1004.108 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1004.111(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or

for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1004.109 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1004.110 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund "may be required of such producer."

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A producer, located in a State which has a State advertising and promotion program in which producers are required to participate unless they are participating in an advertising and promotion program under a Federal order, may (in lieu of a refund request) authorize the market administrator to pay to the State the amount of his required participation not in excess of 5 cents per hundredweight.

§ 1004.111 Duties of the market administrator.

Except as specified in § 1004.106, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1004.103(c);

(b) Set aside the amounts subtracted under § 1004.71(c) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraph (3) of this paragraph; payments, if any, to producers or states pursuant to subparagraph (2) of this paragraph; and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1004.71(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1004.110 or make payment to any State on behalf of any producer for which specific authorization has been received pursuant to § 1004.110 (d). Such refund or payment, as the case may be, shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1004.71(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1004.100 through 1004.112).

(d) Audit the Agency's records of receipts and disbursements.

§ 1004.112 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1004.84.

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[7 CFR Parts 1104, 1106]

[Docket Nos. AO-298-A18, AO-210-A30]

MILK IN RED RIVER VALLEY AND OKLAHOMA METROPOLITAN MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Red River Valley and Oklahoma Metropolitan marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Oklahoma City, Okla., August 24 and 25, 1971, pursuant to notice thereof issued on August 11, 1971 (36 F.R. 15450).

A primary purpose of this hearing was to consider the marketing conditions described in the suspension action issued May 28, 1971 (36 F.R. 10775) affecting certain provisions of the two orders that are the subject of this hearing. The suspension order entitled Milk in Chattanooga, Tenn., and Certain Other Marketing Areas, Order Suspending Certain Provisions, issued May 28 1971 (36 F.R. 10775) suspended effective June 15, 1971, provisions in the Oklahoma Metropolitan and Red River Valley orders that price diverted milk at the plant from which diverted. Certain other actions pursuant to such suspension order were deferred, in particular: (1) Suspension of the provision of the Oklahoma Metropolitan order under which a cooperative association may designate for pool status a plant it operates without requirement to ship milk therefrom to the market was deferred until February 1, 1972 (36 F.R. 24987); (2) Suspension to limit diversion under the Red River Valley order in months other than September–December in the same manner as in September through December was deferred until September 1, 1971.

In the suspension order it was stated that a hearing would be held to consider modifying the subject orders on a permanent basis with respect to problems that were dealt with on an emergency basis in the suspension order. This hearing deals generally with the problem of appropriate standards of performance by which dairy farmers qualify as producers, what milk of such dairy farmers may be pooled as producer milk, and how plants may appropriately qualify for pooling.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on December 10, 1971 (36 F.R. 23821) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of

the recommended decision are hereby approved and adopted and are set forth in full herein subject to the addition of four paragraphs at the end of issue No. 1.

The material issues on the record relate to:

1. Milk to be priced and pooled.
(a) Definition of pool distributing plant.
(b) Definition of pool supply plant.
(c) Definition of cooperative reserve handling plant (Oklahoma Metropolitan order only).
(d) Definitions of "producer" and "producer milk."
2. Location adjustments applicable to producer milk diverted to nonpool plants.
3. Miscellaneous order changes.
4. Need for emergency action.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. In both orders the definitions of the several types of pool plants, definitions of "producer" and "producer milk" should be revised.

Background. A principal reason for the suspension action previously described was the rapid increase in the number of producers and the quantity of milk pooled under each order during 1970 and early 1971 without relation to fluid market needs, thereby resulting in depressed levels of Class I utilization and uniform prices. It is necessary in these circumstances to reexamine the various methods by which milk supplies qualify for pooling under the orders.

There are several methods under these orders by which dairy farmers may qualify as producers without their milk substantially serving the fluid market. In the Oklahoma Metropolitan order market a dairy farmer may qualify as a producer by delivery of his milk to a pool plant for only 1 day, and thereafter his milk may be pooled continuously even though diverted to a nonpool plant. In this order there is no limit on the quantity of milk which may be so diverted by a handler. Under the Red River Valley order a producer's milk may be diverted as much as 29 days of the month in the September-December period. Otherwise, no limit applies to the diversion of an individual producer's milk or to the total quantity of milk a handler may divert.

A second means by which milk can be pooled under the Red River Valley order without substantial delivery performance is through the pool distributing plant definition. The present disposition requirement for pooling a distributing plant under this order is minimal, only 600 pounds per day of route disposition in the marketing area.

The Oklahoma Metropolitan order permits another method by which milk can be pooled readily without substantial delivery performance. Producer milk can be pooled without limit by a cooperative association at a plant operated by the association, if any members of the cooperative are producers delivering milk to other plants qualified as pool plants. The original purpose of this provision and the diversion privileges heretofore described was to enable the pooling of all milk regularly serving the market and needed to assure the fluid market an adequate supply at all times. These provisions were adopted in an earlier period when the cooperative was essentially a local organization handling primarily milk used by local fluid processors and the associated normal reserve of milk of producers regularly identified with this market.

The described methods by which milk may be pooled under these orders has resulted in recent months, however, in wide changes in numbers of producers and quantities of milk pooled under both orders.

In the Red River Valley market during 1968 and 1969 the average number of producers was 410 and 389, respectively. Subsequently the number increased substantially reaching a high of 778 in December 1970 and 866 in January 1971. In the Oklahoma Metropolitan market the number of producers in 1968 and 1969 averaged 1,838 and 1,597, respectively. During this period there was a decline from 2,152 in April 1968 to 1,311 in October 1969. During 1970 the number of producers again increased, however, and reached 2,761 in December.

The quantity of milk pooled under each order increased substantially as a result of the greater number of producers. In the Red River Valley market, May producer milk receipts for the 4 years 1968–1971 were, respectively, 19.9, 22.1, 27.7, and 38.3 million pounds. In the Oklahoma Metropolitan order market producer milk receipts in May of the 4 years 1968–1971 were 74.3, 70.4, 66.1, and 107.4 million pounds, respectively.

Class I disposition of regulated handlers in these order markets did not increase in the same proportion as producer receipts. Consequently, a substantially reduced percentage of producer milk utilized in Class I resulted. The Class I utilization percentage normally is highest in the winter months because of low seasonal milk production. Class I utilization of producer milk in the Red River Valley market in January 1971 was 31.1 percent compared to 65.2 percent, 69.4 percent, and 73.8 percent, in the same month of the 3 preceding years, respectively. By May 1971 a flush production month, utilization declined to 23.0 percent in Class I.

In the Oklahoma Metropolitan market, Class I utilization of producer milk in January 1971 was 49.3 percent compared to 81.4 percent in the preceding January.

The relationship of the uniform price to the Class I price obviously widened as a result of the lower utilization. In January 1971 the Red River Valley uniform price was $1.55 per hundredweight under the Class I price compared to a difference of 61 cents a year earlier. In the Oklahoma Metropolitan order market the January 1971 uniform price was $1.08 less than the Class I price compared to a difference of 41 cents in January 1970.

In developing order provisions to pool those milk supplies that serve the fluid market regularly, it therefore is necessary to adopt provisions that will not also pool supplies that do not so serve the market. Such distinction is necessary otherwise the proceeds of the higher Class I price would be dissipated by including in the market pool additional quantities of milk acquired by handlers primarily for manufacturing purposes. Such dissipated proceeds would accrue to the benefit of dairy farmers who do not regularly or dependably furnish the fluid milk needs of consumers in the marketing area. Unless adequate standards of marketing performance are provided to determine which milk and plants should participate fully in the market pool funds on the basis of service to the fluid market, the uniform price of the market can be depressed to the point that it affects adversely many producers regularly serving the fluid market. This inhibits the price function as the principal means of attracting an adequate supply of milk for the fluid market in an economical manner.

It was the contention of a cooperative association that any provisions that designate the plants or producers to be pooled on a given market must provide any cooperative association that operates on a regional basis reasonable flexibility for moving milk within the cooperative's system. It was indicated that regional operations not only have the purpose of supplying individual markets with adequate supplies of milk, but also of enhancing returns of members to the greatest degree legally possible.

While the provisions adopted should afford needed flexibility and choice for a cooperative or any other handler in achieving efficient milk handling, it nevertheless is necessary to define those supplies of milk to which the prices and pooling provisions of each of these orders should apply. While merging of marketing areas, or otherwise enlarging existing marketing areas sometimes is an answer to pooling problems occasioned by broadened activity in milk handling, modification of marketing areas was not a subject of this hearing. Consequently, under present circumstances the prices and pooling should apply only to milk that is a part of the regular supply for the fluid market (Oklahoma Metropolitan or Red River Valley) to which the particular order applies.

Provisions modified. The Oklahoma Metropolitan order provides for three types of pool plants: distributing plants, supply plants that meet certain delivery performance standards, and cooperative "reserve balancing" plants. Under the Red River Valley order only distributing plants and supply plants that meet certain performance standards in the market may qualify for pooling.

The definitions of the several types of pool plants mentioned should be revised to assure that milk pooled through these plants under the separate orders serves a bona fide supply function for the respective fluid markets. As previously indicated, minimum performance standards should distinguish between those plants substantially engaged in serving the fluid

needs of the order market and those plants that do not serve in a way, or to a degree, that warrants their sharing (by being included in the market pool) in the market average utilization of Class I milk.

(a) *Pool distributing plant.* The standards for pool distributing plants should be the same in both these orders. Similarity of definitions in the two orders is appropriate because of the geographical proximity of the two marketing areas and the desirability of uniform application in the presence of overlapping supply areas and, to some extent, route dispositions.

A pool distributing plant under each order should be defined as one that disposes of in the marketing area at least 15 percent of its total route disposition of fluid milk products (except filled milk). In addition, such plant should dispose of on routes in or out of the marketing area fluid milk products (except filled milk) amounting to 50 percent or more of the fluid milk products (except filled milk) received by the plant.

Under the Red River Valley order at present the performance standard for pooling a distributing plant is that it dispose of an average of 600 pounds per day of Class I milk on routes in the marketing area during the month. Such minimum quantity (about 18,000 pounds per month) is very small relative to the normal disposition of an efficient sized fluid milk operation and is less than one percent of the Class I disposition by the average handler in this market.[1]

A better measure of association with the market is needed. The standard of performance should distinguish between plants that are disposing of a substantial part of their milk supply on routes in the marketing area and other plants that have only a minor disposition in the area. Plants with minor disposition in the market will be subject to partial regulation and thus, even though not pooled, will not be a threat to the orderly marketing of producer milk by fully regulated handlers.

Full regulation should apply to a plant that disposes of in the marketing area 15 percent of its total route disposition of fluid milk products (except filled milk) provided, the plant also meets other standards specified herein. Such in-area disposition is a substantial proportion of the total Class I disposition of the plant and is an appropriate basis for full regulation and sharing in returns of the market pool. As indicated above, plants with less than 15 percent of total route disposition in the marketing area will be subject to partial regulation.

A further appropriate criterion for a pool distributing plant is that plant utilization be basically for fluid disposition. The definition should specify that 50 percent or more of the fluid milk products (except filled milk) received by the distributing plant be disposed of on routes in or out of the marketing area as fluid milk products (except filled milk).

The definition of a pool distributing plant in the Oklahoma Metropolitan order already specifies that to be pooled 50 percent of the milk received by the distributing plant from producers and other pool plants must be disposed as Class I milk in the form of fluid milk products (except filled milk). This needs to be modified only to apply the 50 percent to all receipts of fluid milk products except filled milk. The standard for route disposition in the marketing area should be changed from the present 5 percent of receipts to 15 percent of total route disposition (except filled milk). Such slightly higher standard for disposition in the marketing area is justified for reasons previously stated.

In these markets most handlers receive their milk supply from the major cooperative association, which delivers quantities in accordance with the immediate needs of the handlers. In such circumstance there is little need for the proprietary handler to receive more than a minimum of reserve milk over the quantity he actually puts into fluid disposition and, possibly, cottage cheese and ice cream operations. These handlers should easily meet the 50 percent utilization standard.

For other operators, who may rely on a different type of supply, the utilization standard adopted here again allows sufficient margin between Class I utilization and receipts so that a handler who has acquired a milk supply to meet his fluid requirements during the months of seasonally short production may continue to qualify such plant during the months of seasonally high production. The utilization standard adopted is, for practical purposes, the same as has applied for some time under the Oklahoma Metropolitan order without apparent strain on regular handlers.

A cooperative association supplying pool distributing plants under both orders supported a standard of 15 percent of plant Class I disposition in the marketing area, but proposed that the total Class I disposition needed for qualification be reduced to 40 percent of plant receipts. No specific basis was given for pooling in these markets plants with less than half of their receipts utilized in Class I, except the cooperative's lack of specific information on the operations of particular handlers.

A group of Red River Valley producers first proposed that the pool distributing plant definition in each order specify that 15 percent of the plant's Class I disposition be in the marketing area. In their testimony, however, they changed the proposed standard to 15 percent of plant receipts to be so disposed of, but without presenting any case for the requested change. Accordingly, the latter proposal is denied.

This producer group also proposed that, to qualify, the plant should utilize in Class I at least 50 percent of the milk actually received plus any milk diverted from the plant by the operator or by a cooperative. This proposal is denied since the operator of a pool plant has no control over the volume of milk that may be diverted from his plant by a cooperative association.

No testimony on the distributing plant requirements was offered by proprietary handlers.

(b) *Pool supply plants.* The standards for pooling supply plants in each order should be revised.

A group of Red River Valley order producers proposed modifying the provisions in each order for pooling supply plants. Their proposal differs from existing provisions of both orders only in naming certain additional months (August, January, and February) for which a plant would need to qualify by shipment of 50 percent of specified plant receipts to pool distributing plants in order that it might continue as a pool plant in March–July without shipments. The specified plant receipts on which the standard is based is the quantity of milk received from dairy farmers who would be producers if the plant qualified as a pool plant.

Under each order a plant meeting the 50 percent shipping standard each month of September through December now can continue as a pool plant under that order for the following January–August period. This provision for pooling the plant in the January–August period recognizes that during these months milk production is at a higher level than during the September–December period, whereas the volumes of milk supplies needed by distributing plants are relatively more constant throughout the year. Therefore, shipments from supply plants to pool distributing plants during January–August normally are relatively small and less frequent as compared to the fall period.

It would not be appropriate to specify, as proposed by such Red River Valley producers, that a supply plant in these markets meet the 50 percent shipping standard in the additional months of January, February, and August. Because of the seasonal increase in production previously mentioned, a supply plant that had met the stated standard in the September–December period very likely would be unable to meet the same level of shipment in other specified months.

Nevertheless, the present automatic pooling in other months of supply plants supplying milk in the fall provides another means by which producers may be pooled under either of these orders without necessarily meeting a market need. In order to assure during the January–August period that the dairy farmers who qualify as producers at the pool supply plant are serving as a functional part of the market supply, there also should be, in each order, a provision that a supply plant will continue in pool status after the September–December period only if shipments to pool distributing plants in each month of the January–August period meet a minimum of 20 percent of the total of producer milk received at the supply plant or diverted therefrom by the plant operator. If such 20 percent minimum were not met in any

[1] Official notice is taken of the list of regulated handlers issued by the market administrator July 15, 1971.

month of the January–August period, the plant would not qualify in that month but could qualify in any remaining month of such period by shipment of at least 50 percent of the total of its producer milk receipts and diversions.

(c) *Cooperative reserve balancing plant.* The Oklahoma Metropolitan order should provide that under specified circumstances a cooperative association may qualify its supply-type plant(s) for pooling based on both the quantity of member milk delivered directly from farms to pool distributing plants and shipments from such cooperative plant(s) to pool distributing plants. At least 50 percent of member milk eligible for pooling under the order should be so delivered, however, to pool distributing plants to qualify such a cooperative plant for pooling under this provision.

Section 1106.9(c) of the Oklahoma Metropolitan order currently provides that a cooperative association may pool a supply-type plant it operates if any member-producer milk is received at pool distributing plants. The order does not now specify that some proportion of the milk pooled at the cooperative plant must be delivered to other pool plants. Also, the present provision does not place any limit on the quantity of milk that may be pooled through the cooperative's plant.

The cooperative reserve plant provision currently in the Oklahoma Metropolitan order is the same as that adopted as part of the former Oklahoma City order effective October 1, 1955 (20 F.R. 7133). As previously explained, the purpose of the provision was to allow the local cooperative to handle at such plant milk that was a normal reserve for fluid milk processors. A specific performance standard for pooling the plant was considered unnecessary since the milk handling operation was primarily for the local market. The provision was later incorporated in the succeeding Oklahoma Metropolitan order.

The Red River Valley order has no provision at this time for pooling a plant operated by a cooperative association except as a distributing plant or supply plant as previously described. No such provision for pooling a cooperative reserve balancing plant was proposed for this hearing and no provision is adopted.

In the Oklahoma Metropolitan marketing area there are two such plants operated by a cooperative association, at Oklahoma City and Tulsa, that have qualified for pooling on the basis that milk of member producers is received at pool distributing plants. These plants receive during each month some milk of dairy farmers whose production otherwise is delivered directly from their farms to pool distributing plants. The manufacturing facilities of these cooperative plants serve as principal outlets for the seasonal surplus of the Oklahoma Metropolitan order market and the day-to-day excess of milk supplies resulting from variations in handlers' needs. These plants also furnish some milk to other handlers as interplant transfers, although such handlers are supplied mostly by milk delivered to them directly from farms. Further, these cooperative plants receive the bulk of the reserve milk of the Red River Valley market for processing. This milk is diverted from Red River Valley pool distributing plants. The cooperative's plants continue to be needed to absorb the normal reserve supplies regularly associated with both markets, which, for reasons previously stated, are not taken at all times by properietary handlers.

Providing pool status for such plants will allow the cooperative to achieve efficient handling of reserve milk. When milk of some dairy farmers who regularly supply the market is temporarily not needed by fluid processors, their milk can be pooled by delivery to the cooperative plant. The plant thus is an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from fluid processors in order to maintain pool status. This is an appropriate method of carrying reserve milk in the market pool provided reasonable standards are established to assure that the milk is truly a reserve associated with the fluid market.

Another consideration is the fact that milk sometimes must be transferred from the cooperative association plant to a pool distributing plant(s). In instances where pool distributing plants have limited milk holding facilities, the cooperative association plant can provide supplemental milk when needed. If the cooperative association plant were not pooled, such interplant transfers would be treated at the pool distributing plant as other source milk although the milk received at the cooperative plants normally will be largely from producers regularly serving the market. This would be costly to the purchasing handler and inequitable to the producers.

The cooperative association operating the two plants requested continuance of pool status for the plants under a proposed modification of the existing provision. Such proposed modification would permit qualification of a supply plant operated by a cooperative association in any month of the September–December period if 30 percent of member producer milk were received at any other pool plant during the month. A plant qualifying in the September–December period would qualify automatically in the subsequent 8 months.

It is concluded for reasons stated below that at least half of the member producer milk of the cooperative should be delivered to pool distributing plants (either from the cooperative plant or member's farms) to qualify the cooperative plant(s) for pooling. This will assure a substantial association of producer member milk as a regular supply for pool distributing plants as a basis for pooling the cooperative plant(s). In addition, other provisions (described hereinbelow) limiting diversions from pool plants will assure further that milk pooled at such cooperative pool plants will be primarily milk available as a regular supply for the fluid market. Such a pooling standard is in accord with the function of the cooperative as a supplier for the full needs of most of the pool distributing plants.

This method of qualifying a cooperative reserve balancing plant for pooling should apply only to those plants located within 50 miles from Oklahoma City or Tulsa, Oklahoma. Only plants so located can reasonably be expected to handle the reserve milk of dairy farmers whose milk normally is delivered directly from farms to pool distributing plants.

The principal part of the milk supply needed for pool distributing plants in this market is obtained within the area from which direct delivery from farms to distributing plants is practiced. Ninety-three percent of the producer milk for the Oklahoma Metropolitan market was produced within the State of Oklahoma in December 1969. Five percent of the supply was received from dairy farms in Arkansas. While milk from other production areas may qualify for pooling by shipment, nevertheless for economic reasons, such as the cost of transportation, it is normal for the market to rely upon the nearby direct-shipped milk supply.

There is no reason to conclude that the nearby sources of milk are less adequate to the needs of pool distributing plants in this market than in December 1969. The general level of milk production in Oklahoma and adjoining States and the volume of Class I disposition of regulated handlers under the Oklahoma Metropolitan order are at about the same levels as in 1969. Although some milk recently pooled under the Oklahoma Metropolitan order was produced in distant areas, such milk was not shown to be a supply regularly delivered to pool distributing plants where milk is processed for fluid disposition.

Milk produced on farms within the State of Oklahoma generally is available to milk plants in the Oklahoma Metropolitan marketing area on a direct-delivery basis. The plants the cooperative operates and proposes to pool, therefore, are within an area where they can handle the volume of reserve milk associated with milk supplies actually delivered to pool distributing plants.

(d) *Definitions of "producer" and "producer milk"*—(i) *Definition of "producer".* The producer definition in both orders should be revised. Each order should provide that a "producer" means any person, other than a producer-handler, who produces milk approved by a duly constituted health authority for fluid consumption that is received at a pool plant, or is diverted by a handler for his account to a nonpool plant subject to certain limitations.

In the Red River Valley order a provision should be added to the producer definition to exclude any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler diverting such milk under the other order and the operator of the pool plant each have requested a Class II classification for such milk. Such provision permits milk not

needed for fluid use in one order market to be diverted directly from the farm to a plant regulated under the other order for manufacturing use. The Oklahoma Metropolitan order already contains such a provision.

The producer definition of the Red River Valley order should exclude also any person with respect to milk produced by him that is diverted to an other order plant if under the other order such person is designated as a producer with respect to such milk. Such provision, similar to that now in the Oklahoma Metropolitan order, will serve to avoid conflict in case a handler reports milk of a dairy farmer diverted to a plant regulated by another order and such other order does not exempt such dairy farmer from producer status thereunder on the basis that his milk was diverted from another order.

(ii) *Definition of "producer milk".* The producer milk definition in the two orders should be revised to limit the proportion of a handler's milk supply that may be diverted from a pool plant to a nonpool plant. A handler operating a pool plant should be allowed to divert 50 percent of his total receipts of milk from producers (including both milk received at the pool plant and diverted from the plant, but excluding any milk of members of a cooperative diverting milk under a similar provision). A cooperative should be able to divert 50 percent of the milk of member-producers.

Both of these orders currently provide that the milk of a producer may be diverted to a nonpool plant. Diverted milk normally is moved directly from the dairy farm to the nonpool plant. At present there is no limit under the Oklahoma Metropolitan order on the quantity of producer milk that a handler may divert in any month. Under the Red River Valley order unlimited diversion by a handler is confined to the months of January through August. However, during the remaining months of the year diversion is only slightly less limited since diversion of up to 29 days' production of such producer may take place in such months.

Diversion is a method by which a handler may dispose of in an efficient manner the reserve milk that is a necessary part of his regular supply. In order to be assured of an adequate supply every day, a handler procuring his own milk supply must arrange to purchase regularly sufficient milk to allow for variations in production and in his daily needs for fluid processing. Production varies seasonally and, accordingly, producers furnishing a sufficient supply for the low production season will produce more than an adequate supply in high production months. Handlers' daily requirements also vary, principally because packaging is not carried on all days of the week.

Some limitation on the quantity of milk a handler may divert is necessary to prevent dilution of the market pool with milk intended solely for manufacturing purposes. Otherwise a pool plant operator who also operates a nonpool manufacturing plant could include milk supplies for the manufacturing operation in the market pool. A reasonable limit on the quantity of milk a handler may divert therefore serves to limit dissipation of market pool funds for support of a manufacturing milk operation.

Since it is possible for milk of a dairy farmer to be pooled as producer milk more or less continuously after one actual delivery to a pool plant, there is need, in both markets, to establish some limits on the quantities of milk that can be diverted.

At the hearing a cooperative association advocated that it be permitted under the Oklahoma Metropolitan order to divert up to 30 percent of the producer milk pooled by the cooperative association during the months of flush production and a lesser percentage during other months of the year. The cooperative requested that unlimited diversions be permitted in all months under the Red River Valley order.

In its brief, however, the cooperative requested, for both orders, that diversion be allowed on 21 days' production of a producer in each month of the September–December period, and that unlimited diversions be permitted in other months.

Another proposal, made by 57 Red River Valley producers, would limit the total quantity of producer milk diverted by a cooperative association to 25 percent of the member-producer milk of such cooperative physically received at pool plants. The proposal also would require that at least 10 days' production of any producer be physically received at a pool plant during the month to be eligible for diversion to a nonpool plant at other times in the month. Further, if milk of a producer were diverted for more days of production than it was physically received at the pool plant, none of the diverted milk would be considered to be producer milk for the month. These provisions were proposed for both orders.

A proposal submitted for the hearing by a group of producers under the Oklahoma Metropolitan order would limit diversion by a handler to 30 percent of the handler's receipts from producers. One producer testified in support of such proposal at the hearing.

It is concluded that a handler should be able to divert up to 50 percent of the milk of producers accounted for by the handler as either received at pool plants or diverted. Similarly, a cooperative association should be able to divert 50 percent of its member-producer milk. A proprietary handler obviously would not need to divert any milk of cooperative association members if the cooperative were diverting it from his plant.

Such provisions, included in each order, would provide needed flexibility in handling for both proprietary handlers and cooperative associations. At the same time they would mitigate the pooling of milk not serving as part of the regular supply for the fluid market.

To further assure that producers whose milk is diverted are regularly supplying the market, it should be specified under each order, that during the month at least 15 percent of a producer's milk must be received at pool plants. If less than 15 percent of a producer's milk is received at pool plants, then only that part of his milk actually received at pool plants should be considered producer milk eligible for pooling. Since every other day delivery is usual in these markets, three deliveries for each producer normally would assure that such producer's milk is eligible for diversion during the month.

It is not necessary that the diversion of the milk of a producer be limited to the same number of days that his milk is received at pool plants, as proposed by one producer group. Such a provision could work against efficiency in handling in these markets. The type of provision adopted herein for both markets enables the handlers or cooperative association under each order to arrange for the diversion of milk in the most efficient manner. Such provision will enable a proprietary handler or cooperative association to divert milk from those farms located nearest to the plant where it will be manufactured, and to use the milk of producers located nearest to pool distributing plants to be delivered there to meet fluid needs.

It is possible that a handler (whether proprietary or cooperative association) will divert during a month more milk than is allowed under the proposed limitation. In such case the handler should be required to designate the dairy farmers whose diverted milk is not to be included as producer milk. Such option permits a handler to retain as producers most of the dairy farmers whose milk he chooses to divert. Accordingly, if the handler fails to designate certain dairy farmers whose milk was over-diverted, the entire quantity of milk diverted by the handler should be excluded from producer milk status since there would be no practical basis for distinguishing those producers to retain producer status.

Exception was taken by a cooperative association to the provision that 15 percent of a producer's milk be received at pool plants during the month if other milk of the producer is to be eligible for diversion to nonpool plants. The cooperative contended that this would require uneconomic movements of milk to the market during periods of surplus milk production.

The subject provision is designed to assure that diversion to nonpool plants is used only to pool milk of those dairy farmers who are in fact supplying the market. In this case the delivery of 15 percent of each producer's milk to pool plants is regarded as a minimum performance demonstrating that such producer is supplying the market. Such delivery, for dairy farmers who are a regular part of the market supply, should not result in difficult or uneconomic handling. In the case of producer milk associated with a pool plant served by the cooperative, the quantity diverted from the plant may be as much as delivered to the plant but may not exceed such quantity. Thus, of the total milk

associated with the pool plant at least half must be actually received at the plant and such quantity is more than three times the total of the minimum to be delivered by each producer individually.

An exception in behalf of a group of Red River Valley producers requested a modification of the provision that specifies the quantity of member producer milk that a cooperative may divert. The provision allows diversions equal to the quantity of milk of member producers received at pool plants during the month. As requested in the exception the provision would specify the milk diverted could equal "milk physically received at pool plants."

The suggested modification is not adopted, but an additional provision is included in each order stating that producer milk diverted by a cooperative or other handler to a nonpool plant is to be accounted for as received by the diverting handler at the location of the nonpool plant. The new language thus makes clear that the milk of member-producers "received at pool plants" is only that actually taken into the plant and does not include diverted milk.

2. *Application of location adjustments to diverted milk.* Under each order the uniform price for milk diverted to a nonpool plant should be adjusted for the location of the plant where physically received.

Diversion of producer milk, as described previously, is a method of handling reserve milk of the respective market by delivery to a nonpool plant. In the Oklahoma Metropolitan market most of the reserve milk originating within Oklahoma is expected to be handled by a cooperative association in the plants it operates at Oklahoma City and Tulsa. Since provision has been made to qualify these plants as pool plants, no diversion is involved in handling Oklahoma Metropolitan producer milk at these plants. More distant supplies have been handled by diversion to nonpool plants near to the source of supply.

Under the Red River Valley order, milk of producers is diverted to the plant of the cooperative at Oklahoma City or to its plant at Tulsa. The Muenster, Tex., plant of the cooperative also is a potential outlet for diverted milk of Red River Valley producers. An additional facility of a proprietary operator at Sulphur, Okla., receives some milk diverted from Red River Valley pool plants but does not have capacity to serve as a main outlet for reserve milk of this market.

Prior to a suspension order effective June 15, 1971, the uniform price for milk diverted from a pool plant to a nonpool plant was that applicable at the location of the pool plant from which the milk was diverted. Currently, however, under the suspension order, the uniform price is adjusted for the location of the nonpool plant physically receiving the diverted milk.

The location adjustments under each of the two orders were established to reflect the relative values of milk at various locations based on distance of the plant of receipt from a central point in the respective marketing area.

Under the Oklahoma Metropolitan order the location adjustments reduce the applicable price in relation to the distance of the plant of receipt from the city hall in Oklahoma City. The adjustments apply at plants that are 50 miles or more from the city hall and outside the State of Texas and certain Oklahoma counties. Under the Red River Valley order similar minus location adjustments based on the distance from the city hall at Wichita Falls, Tex., apply at plants outside the State of Texas and more than 40 miles from such city hall.

With respect to milk received at pool plants, the location adjustments apply to the Class I price paid by handlers and to the uniform price paid to producers. With respect to milk diverted to a nonpool plant, the suspension order cited above requires that the uniform price to producers be based on the location of the nonpool plant where the milk is received.

It is concluded that such location adjustments under both orders appropriately reflect the relative location values of diverted producer milk in the same manner as for producer milk received at pool plants variously located. The price for milk diverted to a nonpool plant is the same as that applying to milk received at a pool plant at a similar location. The diverted milk does not have a higher value than milk received at a pool plant at such location.

For example, if dairy farmers relatively distant from the market were to have their milk diverted to a nonpool plant near their farms and yet receive a uniform price based on the location of a pool plant in the marketing area, such farmers would be compensated as if their milk had incurred the expense of delivery all the way to the market center. Milk that is actually delivered to the market has been made available to regulated fluid processors only at the cost of delivery to the market center. The milk received at a distant location, however, is not similarly available, and could not be made available unless the cost of transportation to the market were incurred. For this reason milk received in the central marketing area is of higher value at least by the amount of transportation cost compared to the milk received at distant pool or nonpool plants. This principle applies whether the diverted milk originates from a source near to the market or at a distance.

The cooperative association that is the principal supplier for the Red River Valley market nevertheless proposed that under the Red River Valley order milk diverted to any nonpool plant within 150 miles of the boundary of the marketing area be priced at the pool plant from which diverted. This pricing was intended to apply to milk diverted from pool plants at Ardmore and Lawton, Okla., and Wichita Falls, Tex., to the cooperative manufacturing plants at Oklahoma City and Tulsa. Under the location differential provision of the order the uniform price as adjusted to the Oklahoma City and Tulsa locations would be less than at the plants from which diverted.

The cooperative's proposal is denied for the reasons previously cited requiring that the uniform price for the diverted milk reflect the value of such milk at the plant where it is received.

3. *Miscellaneous order changes.* (a) The definition of "handler" as applied to a cooperative association delivering tank truck loads of milk to pool plants should be modified by deletion of the reference to operation of a pool plant by the cooperative association. Inasmuch as a cooperative may be performing the function of making tank truck deliveries to pool plants whether or not it operates a pool plant, its designation as handler should not depend on the incidental fact that it operates a pool plant.

(b) At present each of the two orders, in defining "producer" and "distributing plant", provides that the health authority governing each must be a duly constituted State or municipal health authority, or an agency of the Federal Government located in the marketing area. These provisions should be modified. For purposes of the order regulation it is sufficient that the approval be that of any duly constituted health authority. Such term would include not only a state or municipal health authority but also an agency of the Federal Government when such agency approves a milk source as acceptable to supply milk to a reservation, facility or installation operated by such agency. The definitions of "producer" and "distributing plant" should be modified accordingly in each order.

The supply plant definitions of both orders currently make no provision with respect to approval of the plant by a health authority. For the purpose of defining a pool supply plant, the essential consideration is the shipment to the market of a specified proportion of the plant receipts eligible as producer milk. It is not necessary that the pool qualification depend on a specific health approval for the supply plant. Absence of such a requirement in the definition in no way affects the quality of milk received in the market from a supply plant. A fluid distributing plant in the marketing area receiving milk from a supply plant would need to comply under applicable health regulations with respect to all milk receipts. Such regulations rather than any provision of the order would govern the quality of milk received.

(c) A section entitled "diverted milk" in the Red River Valley order, § 1104.63, should be revoked. Provisions dealing with the same subject matter have been added to the definitions of "producer milk."

(d) The transfer section of the Red River Valley order dealing with transfers to other order plants should be revised to permit diversion to other order plants of milk for which Class II usage (or comparable utilization under such other order) is requested.

This change will have no effect on milk diverted to an other order plant unless

the other order has a complementary provision excluding such diverted milk from producer milk status under the receiving order. The Oklahoma Metropolitan order is one of the orders that has such complementary provision. Handlers regulated by the Red River Valley order should be in position to divert milk for Class II use to pool plants of the nearby Oklahoma Metropolitan order market. This will provide additional outlets through which reserve milk of the Red River Valley handlers may be channeled.

(e) The current transfer section of the Oklahoma Metropolitan order provides for diversions to other order plants in the introductory text of such section. Paragraph (e) (2) within such section, however, refers only to transfers of milk and should be clarified by adding the phrase "or diverted."

(f) There is no need in either order to provide for diversion of producer milk from one pool plant to another pool plant under the same order. Cooperative associations acting as the handler of bulk tank milk deliveries to pool plants may, when such milk is not needed at any pool plant, redirect its delivery to either another pool plant or a nonpool plant. Accordingly, the transfer provisions of each order should be revised deleting any reference to diversions to pool plants.

4. *Need for emergency action.* A proposal that a recommended decision in these matters be omitted is denied. One group of producers favored the omission of a recommended decision in order that the order might be amended promptly while another group asked that a recommended decision be issued.

Issues such as pooling standards for plants and the quantity of producer milk that may be diverted are complex issues that require the issuance of a recommended decision in order that the groups of producers with widely divergent views on these issues may have opportunity to except to the findings and conclusions therein.

Moreover, the pricing of diverted milk at the plant to which diverted, one of the amendments favored by the group requesting omission of the recommended decision, is currently in effect as the result of a suspension order and will continue to be effective until the order is amended as a result of this hearing.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are documents, namely, marketing agreements regulating the handling of milk in the Red River Valley and Oklahoma Metropolitan marketing areas, and an order amending the orders regulating the handling of milk in the Red River Valley and Oklahoma Metropolitan marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreements are identical with those contained in the respective orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

November 1971 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Red River Valley and Oklahoma Metropolitan marketing areas is approved or favored by producers, as defined under the terms of the respective order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the respective marketing area.

Signed at Washington, D.C., on January 14, 1972.

Richard E. Lyng,
Assistant Secretary.

Order[1] Amending the Orders, Regulating the Handling of Milk in the Red River Valley and Oklahoma Metropolitan Marketing Areas

Findings and Determinations

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

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Red River Valley and Oklahoma Metropolitan marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the Red River Valley and Oklahoma Metropolitan marketing areas shall be in conformity to and in compliance with the terms and conditions of the respective order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on December 10, 1971, and published in the Federal Register on December 15, 1971 (36 F.R. 23821) shall be and are the terms and provisions of this order amending the orders, and are set forth in full herein with the following modifications:

1. In § 1104.9, paragraph (b) is revised.

2. In § 1104.14, a new subdivision is added to paragraph (f).

3. Change No. 9 of Red River Valley amendments is revised.

4. In § 1106.9, paragraph (b) is revised.

5. In § 1106.13, a new subdivision is added to paragraph (e).

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.6 is revised to read as follows:

§ 1104.6 Producer.

(a) "Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a person described pursuant to paragraph (b) of this section, who produces milk approved for fluid consumption by a duly constituted health authority, which milk is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account from a pool plant to a nonpool plant, subject to the provisions of § 1104.14.

(b) This definition shall not include:

(1) Any person with respect to milk produced by him that is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each have requested Class II classification of such milk in their reports of receipts and utilization filed with the respective market administrator; or

(2) Any person with respect to milk produced by him that is diverted to another order plant if such person is designated as a producer under the other order with respect to such milk.

2. Section 1104.7 is revised to read as follows:

§ 1104.7 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which fluid milk products are disposed of on routes.

3. Section 1104.8 is revised to read as follows:

§ 1104.8 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

4. Section 1104.9 is revised to read as follows:

§ 1104.9 Pool plant.

"Pool plant" means any plant (other than a plant operated by a producer-handler or one exempt pursuant to § 1104.61) described in paragraph (a) or (b) of this section:

(a) A distributing plant from which during the month:

(1) Fluid milk products (except filled milk) are disposed of on routes in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1104.14; and

(2) Fluid milk products (except filled milk) are disposed of on routes in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1104.6 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January-August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of tl.is section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

§ 1104.11 [Amended]

5. In § 1104.11(c) change "§ 1104.63" to read "§ 1104.14."

6. Section 1104.14 is revised to read as follows:

§ 1104.14 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Received by the operator of a pool plant at such pool plant from a cooperative association handler pursuant to § 1104.11(e);

(c) Diverted by the operator of a pool plant from such pool plant to a nonpool plant subject to the conditions of paragraph (f) of this section;

(d) Received from producers by a cooperative association handler pursuant to § 1104.11(e) in an amount in excess of the quantity delivered by such cooperative association to pool plants pursuant to paragraph (b) of this section; or

(e) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant subject to the conditions of paragraph (f) of this section;

(f) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert from pool plants to nonpool plants for its account, subject to the conditions of subparagraph (3) of this paragraph, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert from his pool plant to a nonpool plant for his account, subject to the conditions of subparagraph (3) of this paragraph, milk of producers not members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant;

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

§ 1104.32 [Amended]

7. In § 1104.32(b) the phrase "to another pool plant or" is deleted.

8. Revise § 1104.41(b)(6)(i) to read as follows:

§ 1104.41 Classes of utilization.

* * * * *

(b) * * *

(6) * * *

(i) Two percent of milk received directly from producers at a pool plant or diverted from such pool plant by the plant operator; and

* * * * *

§ 1104.43 [Amended]

9. In § 1104.43(a) change "§ 1104.14 (a)(2)" to read "§ 1104.14(b)."

10. In § 1104.44 revise the text of paragraph (a) preceding subparagraph (1) of such paragraph, the text of paragraph (e) preceding subparagraph (1) of such paragraph, and subparagraph (2) and (3) of paragraph (e) to read as follows:

§ 1104.44 Transfers.

* * * * *

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants on or before the seventh day after the end of the month in which the transaction occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

* * * * *

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

* * * * *

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

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk

form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

* * * * *

§ 1104.52 [Amended]

11. In § 1104.52(a) the word "pool" preceding the word "plant" is deleted.

§ 1104.61 [Amended]

12. In § 1104.61(c) the provision ", except during the months of January through August if such plant retains automatic pooling status under this part" is deleted.

§ 1104.62 [Amended]

13. In § 1104.62(a)(1)(ii) change "§ 1104.8" to read "§ 1104.9(b)."

§ 1104.63 [Revoked]

14. Section 1104.63 is revoked in its entirety.

15. Section 1104.74 is revised to read as follows:

§ 1104.74 Location differentials to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.80 for producer milk received at a pool plant, the uniform price computed pursuant to § 1104.71 shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.82 and 1104.83, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received; and

(c) In making payments to producers pursuant to § 1104.80 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1104.71 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

§ 1104.86 [Amended]

16. In § 1104.86(a) change "§ 1104.14(a)(2)" to read "§ 1104.14(b)."

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.7 is revised to read as follows:

§ 1106.7 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which fluid milk products are disposed of on routes.

2. Section 1106.8 is revised to read as follows:

§ 1106.8 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

3. Section 1106.9 is revised to read as follows:

§ 1106.9 Pool plant.

"Pool plant" means any plant (other than a plant operated by a producer-handler or one exempt pursuant to § 1106.61) described in paragraph (a), (b), or (c) of this section;

(a) A distributing plant from which during the month:

(1) Fluid milk products (except filled milk) are disposed of on routes in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1106.13; and

(2) Fluid milk products (except filled milk) are disposed of on routes in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1106.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continued so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January-August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) A plant(s) operated by a cooperative association and located not more than 50 miles from the City Hall of Tulsa or Oklahoma City, Okla., at which milk is received from dairy farmers producing milk approved by a duly constituted health authority for fluid consumption if the total of fluid milk products described in subparagraphs (1) and (2) of this paragraph received at plants described pursuant to paragraph (a) of this section is not less than 50 percent of total milk of member producers during the month:

(1) Fluid milk products (except filled milk) transferred from such cooperative association plant(s); and

(2) Milk of member producers received from such producers.

§ 1106.11 [Amended]

4. In § 1106.11 paragraph (c) is revised to read as follows:

(c) A cooperative association with respect to the milk of its member producers delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association. Such milk shall be considered to have been received by such cooperative association at the location of the plant to which it is delivered; or

5. Section 1106.12 is revised to read as follows:

§ 1106.12 Producer.

(a) "Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a person described pursuant to paragraph (b) of this section, who produces milk approved for fluid consumption by a duly constituted health authority, which is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account from a pool plant to a nonpool plant subject to the provisions of § 1106.13.

(b) This definition shall not include:

(1) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and the handler under the other order diverting such milk and the operator of the pool plant each request Class II classification of such milk in their reports of receipts and utilization filed with the respective market administrator; or

(2) Any person with respect to milk produced by him that is diverted to an other order plant if such person is designated as a producer under the other order with respect to such milk.

6. Section 1106.13 is revised to read as follows:

§ 1106.13 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Diverted by the operator of a pool plant from such pool plant to a nonpool plant subject to the conditions of paragraph (e) of this section;

(c) Received from producers by a cooperative association handler pursuant to § 1106.11(c); or

(d) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant subject to the conditions of paragraph (e) of this section.

(e) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert from pool plants to nonpool plants for its account, subject to the conditions of subparagraph (3) of this paragraph, a total quantity of milk not in excess of

total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert from his pool plant to a nonpool plant for his account, subject to the conditions of subparagraph (3) of this paragraph, milk of producers not members of a cooperative association diverting milk pursuant to subparagraph (1) of this paragraph, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant;

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

7. In § 1106.44 revise the text of paragraph (a) preceding subparagraph (1) of such paragraph and subparagraph (2) of paragraph (e) to read as follows:

§ 1106.44 Transfers.

* * * * *

(a) At the utilization mutually indicated in writing to the market administrator by both handlers on or before the seventh day after the end of the month in which the transaction occurred, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

* * * * *

(e) * * *

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

* * * * *

§ 1106.53 [Amended]

8. In § 1106.53(a) the word "pool" preceding the word "plant" is deleted.

§ 1106.61 [Amended]

9. In § 1106.61(c) the provision ", except during the months of January through August if such plant retains automatic pooling status under this part" is deleted.

§ 1106.62 [Amended]

10. In § 1106.62(a)(1)(ii) change "§ 1106.8" to read "§ 1106.9(b)."

11. Section 1106.81 is revised to read as follows:

§ 1106.81 Location differential to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.80 for producer milk received at a pool plant, the uniform price computed pursuant to § 1106.72 shall be reduced according to the location of the pool plant at the rate set forth in § 1106.53(a);

(b) For the purpose of computations pursuant to §§ 1106.84 and 1106.85, the uniform price shall be adjusted at the rate set forth in § 1106.53(a) applicable at the location of the nonpool plant from which the milk was received; and

(c) In making payments to producers pursuant to § 1106.80 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1106.72 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1106.53(a).

[FR Doc.72-805 Filed 1-18-72;8:50 am]

Export Marketing Service

[7 CFR Part 1481]

[GR-369]

RICE EXPORT PROGRAM

Notice of Proposed Rule Making

Pursuant to authority contained in the Commodity Credit Corporation Charter Act (15 U.S.C. 714), the Agricultural Act of 1949 (7 U.S.C. 1421), and section 201(a) of the Agricultural Act of 1956 (7 U.S.C. 1851), notice is hereby given that the Export Marketing Service proposes to amend the provisions of the Rice Export Program (GR-369) (7 CFR Part 1481) (35 F.R. 7880 and 35 F.R. 8472) as described below.

Interested persons may submit data, views, and comments in connection with the proposal in duplicate to the Director, Grain Division, Commodity Exports, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, so as to be received within 30 days after the date of publication of this notice 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 to GR-369 is issued concurrently with a proposed revision of the U.S. Standards for Rough Rice (7 CFR 68.201 et seq.), Brown Rice (7 CFR 68.251 et seq.), and Milled Rice (7 CFR 68.301 et seq.). The proposed revision of the standards for brown rice deletes the term "head rice" and provides that the milling yield with respect to brown rice will be expressed as whole kernels and total milled rice to show the actual outturn of the brown rice. Under the current standards for brown rice, head rice is the amount of whole kernels of milled rice, including 4.0 percent of broken kernels that can be obtained by milling brown rice.

Under GR-369, exporters of brown rice may qualify for an export payment. To support an application for payment, the exporter furnishes an official lot inspection certificate showing the estimate of the quantity of head rice and total milled rice. Since the export payment under GR-369 is made on the basis of the whole kernels and broken kernels, the regulations provide that the head rice must be adjusted to compensate for the 4.0 percent of broken rice contained therein.

Under the proposed revision to the brown rice standards, the official lot inspection certificates would show the milling yield of the brown rice expressed in whole kernels and total milled rice. Consequently, the need for provisions to adjust head rice will no longer be required. It is proposed that such provisions in § 1481.102(d) (4) and (5) be revoked if the proposed brown rice standards are adopted.

To recognize changing methods of issuing export documents, the proposed amendment will provide for the acceptance of a datafreight receipt in lieu of a standard on-board ocean bill of lading. The datafreight receipt will be accepted provided it shows the information required by § 1481.153(a), an on-board date, and is signed by an agent of the carrier. The exporter must also furnish a statement that the standard bill of lading was not issued in connection with the export.

To provide uniformity in export programs administered by EMS and to take into consideration export payment rate differentials between classes of rice, areas of export and, at times, destinations, the proposed amendment will require exporters to offer and to export on the basis of class, area of export, and destination on non-Public Law 480 exports. In submitting an offer, the exporter will have to specify in the offer the class of rice, the area of export, and if applicable, any destination requirement. To be eligible for a payment, the rice exported and applied to the accepted offer would have to be of the same class, be shipped from the same export area, and if applicable, to the same destination as specified in the offer. Provisions will be provided in the regulations for amendments to an accepted offer subject to such adjustment in the payment rates as may be specified by CCC.

Signed at Washington, D.C. on August 31, 1971.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity Credit Corporation, and General Sales Manager, Export Marketing Service.

[FR Doc.72-552 Filed 1-18-72;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

REA AND RURAL TELEPHONE BANK LOANS

Proposed Revision of Procedure for Advance of Telephone Loan Funds

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a supplement to REA Bulletin 327–1, Advance of Telephone Loan Funds, revising certain provisions of that bulletin and the related Financial Requirement Statement, REA Form 481, used by borrowers to request loan funds and report the disposition of such funds previously advanced to finance approved loan projects.

The REA Bulletin outlines the basic policies of REA in connection with the advancing of loan funds to telephone borrowers and prescribes the use of REA Form 481, Financial Requirement Statement, for borrowers' use in requesting advances.

Persons interested in the provisions of the proposed supplement to REA Bulletin 327–1 and revised REA Form 481 may submit written data, views, or comments to the Director, Borrowers' Financial Management Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Director, Borrowers' Financial Management Division during regular business hours.

The principal changes in the proposed supplement to REA Bulletin 327–1 and the revised Financial Requirement Statement, copies of which may be secured from the Director, Borrowers' Financial Management Division, are as follows:

Existing REA procedures and REA Form 481 are amended to provide for loans made by the new Rural Telephone Bank established in May 1971 (Public Law 92–12). Specific changes have been made to: (1) Consolidate both REA and Rural Telephone Bank loans in a single loan budget for borrowers with financing from both sources; and, (2) accommodate the advance of funds to borrowers and their reporting on the use of such funds from Bank loans as well as REA loans. Provision is also made for handling purchases of Class B bank stock required in connection with each Rural Telephone Bank loan, whether funds for this purpose are provided in a Bank loan or from the general funds of the borrower deposited in the Trustee, REA Construction Fund bank account.

The Financial Requirement Statement, REA Form 481, used in requesting loan funds from REA has been revised to provide additional columns entitled, "Total Advances to Date", Advances Now Requested", and "Advances Approved," and a new section has been included to provide a cumulative summary of total funds loaned, under note, advanced from REA loans and from Bank loans. The information to be provided by the three additional columns is designed to make the Financial Requirement Statement more useful both to borrowers and to REA and has been requested by representatives of a number of borrowers. The cumulative summary will provide needed information on the current status of REA and Bank loan balances after each advance of funds.

Dated: January 13, 1972.

WALTER L. WOLFF,
Acting Assistant Administrator.

[FR Doc.72–751 Filed 1–18–72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 71–WE–26–AD]

CERTAIN DeHAVILLAND MODEL D.H. 104 DOVE SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to DeHavilland Model D.H. 104 Dove Series 7A, 7AXC, 8A, 8AXC airplanes modified per STC SA1747WE. There has been a a report of fatigue damage to a wing main spar lower attach fitting (CPD 2004) with approximately 5,573 hours time in service. Recently, Strato Engineering Co., Inc., Burbank, Calif., has developed an FAA-approved further modification of the airplane, as modified per STC SA1747WE, as described by STC SA2438WE. Also, Hawker Siddeley and the agency have reexamined data pertaining to the use and the safe-life of the fitting and the lower spar boom. Information acquired indicates that the use of certain parts to their present life limits could result in loss of a wing while airborne. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require either reduced life limits or additional modification of DeHavilland Model D.H. 104 Dove Series 7A, 7AXC, 8A, 8AXC airplanes modified per STC SA1747WE.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Office of Regional Counsel, Attention: Rules Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before February 23, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

HAWKER SIDDELEY. Applies to DeHavilland Model D.H. 104 Dove Series 7A, 7AXC, 8A, 8AXC airplanes modified per STC SA1747WE certificated in all categories.

Compliance required by the effective date of this A.D. as indicated, unless already accomplished.

To prevent fatigue failure of a wing main spar lower attach fitting or of a wing center section lower spar boom, accomplish the following:

(a) Replace each wing lower spar attach fitting P/N CPD 2004 installed under STC SA1747WE at or before 1,800 hours' time in service, and at intervals not to exceed 1,800 hours' time in service, with a new attach fitting (Strato Engineering Co., Inc., Part No. CPD 2004), until (c) below, is accomplished.

(b) Replace the lower spar boom at or before 1,800 hours' time in service, and at intervals not to exceed 1,800 hours' time in service, in accordance with MOD 779 (See Hawker Siddeley Technical News Sheet Series CT(104) No. 119), until (c) below, is accomplished.

(c) The replacements, as required in (a) and (b) above, are not required after rework is accomplished per STC SA2438WE or an alternate acceptable modification approved by the Chief, Aircraft Engineering Division, Western Region.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on January 10, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72–736 Filed 1–18–72;8:46 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 528]

[No. 72–50]

FEDERAL HOME LOAN BANK SYSTEM

Proposed Nondiscrimination Requirements

JANUARY 13, 1972.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend Subchapter B of Chapter V of Title 12, CFR for the purposes of (1) prohibiting discrimination by member institutions in their lending and employment practices and in their advertising, (2) requiring in certain circumstances that such institutions indicate that they do not discriminate, and (3) requiring that such institutions use and maintain certain reporting forms. Accordingly, the

Federal Home Loan Bank Board proposes to amend said Subchapter B by adding thereto a new Part 528, to read as follows:

PART 528—NONDISCRIMINATION REQUIREMENTS

Sec.
528.1 Definition of member.
528.2 Nondiscrimination in lending and other services.
528.3 Nondiscrimination in applications.
528.4 Nondiscriminatory advertising.
528.5 Equal housing poster.
528.6 Records of racial and ethnic data on loan applicants.
528.7 Nondiscrimination in employment.
528.8 Complaints.

AUTHORITY: The provisions of this Part 528 are issued under title VIII, Public Law 90–284, 82 Stat. 81–89, 42 U.S.C. 3601–3619; E.O. 11063, 27 F.R. 11527; title VII, Public Law 88–352, 78 Stat. 253–266, 42 U.S.C. 2000e—2000e–15; E.O. 11246, 30 F.R. 12319; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437; secs. 402, 403, 407, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726; sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 528.1 Definition of member.

As used in this Part 528, the term "member institution" means any institution which is a member of a Federal Home Loan Bank, other than

(a) A savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, or

(b) An insurance company.

§ 528.2 Nondiscrimination in lending and other services.

No member institution shall deny a loan or other service rendered by the member institution for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or discriminate in the fixing of the amount, interest rate, duration, application procedures, or other terms or conditions of such loan or other service because of the race, color, religion, or national origin of:

(a) An applicant for any such loan or any other service rendered by the member institution;

(b) Any person associated with such applicant in connection with such loan or other services or the purposes of such loan or other services; or

(c) The present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other service is to be made or given.

§ 528.3 Nondiscrimination in applications.

No member institution shall refuse or decline to allow, receive, or consider any application, request, or inquiry with respect to a loan or other service rendered by the member for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or discriminate in the imposition of conditions upon, or in the processing of, any such application, request, or inquiry, or make statements which discourage any such application, request, or inquiry because of the race, color, religion, or national origin of any prospective borrower or other person who

(a) Makes application for any such loan or other service;

(b) Requests forms or papers to be used to make application for any such loan or other service; or

(c) Inquiries about the availability of such loans or other services.

§ 528.4 Nondiscriminatory advertising.

No member institution which directly or through third parties engages in any form of advertising shall use words, phrases, symbols, directions, forms, or models which imply or suggest a policy of discrimination or exclusion in violation of the provisions of title VIII of the Civil Rights Act of 1968. To the extent feasible, such advertisements other than for savings shall include a facsimile of the following logotype and legend:

AN EQUAL HOUSING LENDER

§ 528.5 Equal housing poster.

(a) Each member institution shall post and maintain one or more Equal Housing Posters in the lobby of each of its offices. The text of the Poster appears in paragraph (b) of this section. The Poster shall be at least 11 inches by 14 inches and the text shall be easily legible.

(b) The text of the Equal Housing Poster shall be as follows:

WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL "FAIR HOUSING LAW"

IT IS ILLEGAL, because of race, color, religion, or national origin, to:

Deny a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling

or

Discriminate in the fixing of the amount, interest rate, duration, application procedures or other terms or conditions of such a loan.

If you believe you have been discriminated against, you may send a complaint to—

Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

or call your local HUD or FHA office.

§ 528.6 Records of racial and ethnic data on loan applicants.

(a) *Recordkeeping requirements.* Every member institution shall require that every written loan application include two copies of part I of the "Equal Housing Reporting Form," the form and text of which appear in paragraph (b) of this section. One copy shall be given to the applicant at the time the application is made. The other copy, signed and dated by the applicant, shall be retained by the member for at least 2 years following such date. If a loan is granted to the applicant, the member institution's copy shall be retained in its regular file on that loan, and the numerical code from the form indicating the applicant's racial or ethnic group shall be included on the entry for that loan in the member institution's loan register, and in such other convenient form as the Board may from time to time prescribe. If no loan is granted to the applicant, the member institution shall complete part II of the form, and shall retain the form and data therefrom, together with the written application and any other documents obtained in connection with the application.

(b) *Equal Housing Reporting Form.* The text of the Equal Housing Reporting Form shall be as follows:

EQUAL HOUSING REPORTING FORM

PART I

Name of applicant_____
Date of application_____

To protect the civil rights of all borrowers, in accordance with the intent of the U.S. Constitution, the Housing Act of 1949, and the Civil Rights Acts of 1964 and 1968, the following information is neccessary:

The applicant for the loan described in this Application (No. _____) is (circle one):

White (Non-minority), 1.	American Indian, 4.
Negro/Black, 2.	Oriental, 5.
Spanish American, 3.	Other, 6.

If your application is disapproved, the reason(s) will be explained to you upon request.

This institution reviews a variety of factors when considering a loan application. These factors include:

Income of Applicant.
Appraised value of property.
Credit references of Applicant.
Site economics.
_____
_____
(Individual members may add other factors in this space)

If you have reason to believe you have been discriminated against on the basis of race, color, religion, or national origin, you have a right to file a complaint, containing relevant facts, dates, and your name, at the following address:

Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

or to take such other appropriate actions as are permitted by law.

_____
_____
(Signature of Applicant)

PART II

(To be filled in only if application disapproved)
(a) Date of decision:_____
(b) Reasons for disapproval_____
_____
_____

§ 528.7 Nondiscrimination in employment.

(a) No member institution shall, because of an individual's race, color, religion, sex, or national origin:

(1) Fail or refuse to hire such individual;

(2) Discharge such individual;

(3) Otherwise discriminate against such individual with respect to such individual's compensation or the terms, conditions, or privileges of such individual's employment; or

(4) Discriminate in admission to, or employment in, any program of apprenticeship, training, or retraining, including on-the-job training.

(b) No member institution shall limit, segregate, or classify its employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect such individual's status as an employee because of such individual's race, color, religion, sex, or national origin.

(c) No member institution shall discriminate against any employee or applicant for employment because such employee or applicant has opposed any employment practice made unlawful by Federal, State, or local law or regulation or because he has in good faith made a charge of such practice or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of such practice by any lawfully constituted authority.

(d) No member institution shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such member institution indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless a preference, limitation, specification, or discrimination based on religion, sex, or national origin is a bona fide occupational qualification for employment.

(e) This regulation shall not apply in any case in which the Federal Equal Employment Opportunities law is made inapplicable by the provisions of section 2000e–1 or sections 2000e–2 (e) through (j) of title 42, United States Code.

§ 528.8 Complaints.

(a) Complaints regarding discrimination in lending by a member institution should be referred to the Assistant Secretary for Equal Opportunity in the Department of Housing and Urban Development, Washington, D.C. 20410.

(b) Complaints regarding discrimination in employment by a member institution should be referred to the Equal Employment Opportunity Commission, Washington, D.C. 20506.

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by March 20, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72–783 Filed 1–18–72;8:48 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 700]

INSOLVENCY

Proposed Definition

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred in section 120, 73 Stat. 635, 12 U.S.C. 1766, proposes to revise § 700.1 (12 CFR 700.1) by adding a new paragraph (k).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed definition to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than February 17, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

JANUARY 11, 1972.

§ 700.1 Definitions.

* * * * *

(k) (1) *Insolvency.* A credit union will normally be deemed insolvent when the total amount of its shares exceeds the present cash value of its assets after providing for liabilities unless:

(i) It is deemed by the Administrator that the facts that caused the deficient share-asset ratio no longer exist; and

(ii) The likelihood of further depreciation of the share-asset ratio is not probable; and

(iii) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and

(iv) The probability of a further potential loss to the insurance fund is negligible.

(2) For purposes of this section, the following definitions are used:

(i) "Cash value of assets". Recorded value will be considered the cash value of any asset account providing accepted accounting principles and practices and the "Accounting Manual for Federal Credit Unions" are followed and the provisions of law, regulation, and bylaws are met, unless economic conditions require a value different than that recorded on the books and records be assigned to any asset account.

(ii) "Liabilities". Recorded liabilities plus unrecorded liabilities which are due and payable, excluding shares of members and non-members, are considered liabilities.

[FR Doc.72–731 Filed 1–18–72;8:46 am]

[12 CFR Part 741]

REQUIREMENTS FOR INSURANCE

Proposed Criteria

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 209, 85 Stat. 1015, Public Law 91–468, proposes a new § 741.4 (12 CFR 741.4) as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed new § 741.4 to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, D.C. 20456, to be received not later than February 17, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

JANUARY 12, 1972.

§ 741.4 Criteria.

In determining the insurability of a credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act, the following criteria shall be applied:

(a) *Adequacy of reserves.* The credit union must be solvent. A Federal credit union must meet the reserve transfer requirements of section 116(a) of the Federal Credit Union Act and the reserve transfer requirements of regulations issued pursuant to section 116(b) of the Federal Credit Union Act. In the case of a state chartered credit union, that credit union must meet the reserve transfer requirements of the law of the state under which the credit union is chartered: *Provided however,* That the Administrator may require additional reserves where the reserves required by state law are not substantially similar to those required by section 116 of the Federal Credit Union Act. A state chartered credit union may be required to establish an additional special reserve for investments if that credit union is permitted by state law to make investments beyond those authorized in the Federal Credit Union Act.

(b) *Financial condition and policies.* In addition to the requirements of paragraph (a) of this section, the following factors are to be considered in determining whether the credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends such as excessive losses on loans, rising expense ratio, decline in share activity, increasing ratio of notes payable to total shares and unimpaired capital and surplus to near maximum permitted by law or regulation;

(2) Lending policies including adequate documentation of secured loans and proper recording of lien instruments, adequate determination of the financial capacity of borrowers and comakers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must adhere to the provisions of applicable law, regulations, its charter and bylaws, and to the accounting requirements set forth in the Accounting Manual for Federal Credit Unions or similar acceptable accounting principles. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Administrator.

(d) *Insurance of member accounts would not otherwise involve undue risk to the Fund.* The credit union must maintain adequate surety bond coverage as specified in § 741.1. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the Fund is or may be present.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit except as otherwise permitted by law or regulation.

A credit union which makes application for share insurance and its application is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct these deficiencies and thereby qualify for share insurance.

[FR Doc.72-732 Filed 1-18-72;8:46 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

FISH NETS AND NETTING OF MANMADE FIBERS FROM JAPAN

Determination of Sales at Less Than Fair Value

JANUARY 14, 1972.

Information was received on September 2, 1970, that fish nets and netting of manmade fibers from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of October 19, 1971.

I hereby determine that for the reasons stated below, fish nets and netting of manmade fibers from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based. Analysis of information from all sources revealed that the proper basis for fair value comparisons, is between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on either a c.i.f., duty paid, delivered price, or a c.i.f., packed price, less discounts, as applicable. From this price, transportation charges and U.S. duty were deducted, as appropriate.

Exporter's sales price was calculated by deducting from the resale price of the related firm, to purchasers in the United States, selling expenses and other destination costs incurred in the United States. Deductions also were made for Japanese inland freight, ocean freight, insurance, and U.S. duty.

Home market price was calculated on the basis of delivered prices. Deductions were made for inland freight charges. Adjustments were made for credit terms, commissions, packing charges, and for differences in the merchandise compared.

Purchase price or exporter's sales price, where appropriate, was found to be lower than the adjusted home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-897 Filed 1-18-72;9:33 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

ENVIRONMENTAL STATEMENTS

Issuance of Procedures Regarding Preparation

Notice is hereby given of the publication of procedures of Bonneville Power Administration (BPA) to implement the policy and directives of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970); section 2(f) of Executive Order 11514 (March 5, 1970); the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Office of Management and Budget Bulletin No. 72-6 (September 14, 1971), and Department of the Interior Manual Chapter 516.

Set forth below is the Bonneville Power Administration's Environmental Handbook, Chapter 1, section 4. The numbering system used is that of the Bonneville Power Administration Environmental Handbook.

HENRY R. RICHMOND,
Administrator.

DECEMBER 30, 1971.

BPA ENVIRONMENTAL HANDBOOK

SECTION 4. ENVIRONMENTAL STATEMENTS

Chapter I—Preparation of Environmental Statements on BPA Programs

A. *Purpose.* This chapter explains the purpose of Environmental Statements required by section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190) and Department Manual Part 516, Chapter 2, specifies when Environmental Statements are to be prepared for BPA programs, and establishes the responsibilities and procedures involved.

B. *Background.* A major objective of the National Environmental Policy Act is to build careful consideration of environmental factors into agency decision-making processes. To help achieve this objective, section 102(2)(C) of the Act requires agencies to prepare Environmental Statements on proposed actions which might have a significant impact on the environment.

These Environmental Statements serve two functions: (1) They provide a detailed environmental assessment to aid in decision making, and (2) they give interested parties both within and outside the Federal Government an opportunity to review the environmental consequences of proposed actions before they are implemented.

Each Statement is to be reviewed in draft form by appropriate Federal, State, and local government agencies and the public; submitted in final form through the Departmental review process to the President's Council on Environmental Quality and the Congress; and made available to the public.

C. *Policy.* Proposals for construction of new facilities, for maintenance programs on existing facilities, or for new legislation, policies, procedures, or standards will give full consideration to the impact the proposed action might have on the environment.

Where such proposals have significant potential environmental consequences, or are highly controversial, a suitable record will be made of the environmental factors considered in making the recommendation and these factors will be reflected in an Environmental Statement.

D. *Responsibilities.* The Administrator will determine which BPA actions require Environmental Statements.

The Environmental Officer will:

Advise the Administrator on determinations relating to Environmental Statements.

Carry out the procedure specified in 516 DM 2.4G.

Assistant Administrators of program divisions working through their Division Environmental Coordinators will develop information on the environmental impact of their proposals as required for use in preparing Environmental Statements.

Area Managers will serve as points of contact on Environmental Statements with local agencies, interested local groups, and the public.

E. *Actions requiring Environmental Statements.* Three types of actions by BPA may require Environmental Statements:

1. *Proposals for construction of new facilities and for maintenance of existing facilities.* Proposals for construction of new facilities and for maintenance of existing facilities contained in the annual request for appropriations (budget) will be considered a single major action significantly affecting the environment. An Environmental Statement will be prepared each year covering those actions included in the appropriation request. The projects to be covered in this Statement are detailed in section G.

2. *Proposed new or revised policies, procedures, or standards covering BPA programs.* Officials proposing formal policies, procedures or standards must stay alert to the environmental consequences of their proposals and the potential requirement in exceptional cases for an Environmental Statement.

Where proposed formal policies, procedures, or standards have significant potential environmental consequences, this fact should be brought to the attention of the Environmental Office early enough so that an Environmental Statement can be prepared and processed well in advance of the effective date of the action.

3. *Proposals for legislative action.* Environmental Statements will be prepared on proposals for new legislation in accordance with 516 DM 2, Section 9D.

F. *Content of Environmental Statements*—1. *Cover sheet.* The cover sheet will indicate the type of Statement, provide a brief descriptive title, and show the responsible organization, the date, and the administrator's signature.

2. *Summary sheet.* The summary sheet will be prepared in accordance with Appendix I of the CEQ guidelines.

3. *Text.* The text of the Environmental Statement will cover the following items:

a. *Description of the proposal.* Description of the proposed action, its purpose, where it is to be located, and its relationship with

other projects or proposals. Sufficient information and technical data should be included to allow commenting agencies to evaluate the environmental impact.

b. *Description of the environment.* Description of the existing environment without the proposal and the probable future environment without the proposal. Emphasis will be placed on both the environmental details most likely to be affected by the proposal and on the broader regional aspects of the environment, including ecological interrelationships. Where appropriate, this section will also include a description of the present and projected level of economic development, land use, and related cultural factors.

c. *The Environmental impact of the proposed action.* Describe the impacts that may result from the proposed action. Impacts are defined as direct or indirect changes in the existing natural and social environment, including land use, whether beneficial or adverse. Wherever possible these impacts will be quantified. Separate discussions of potential man-caused accidents and natural catastrophes and their responsibilities and risks will be included as appropriate. Specific mention should be made of unknown or partially understood impacts.

d. *Mitigating measures included in the proposed action.* The mitigating measures to be taken, including any necessary research or monitoring, and their effectiveness in reducing the environmental impact.

e. *Any adverse effects which cannot be avoided should the proposal be implemented.* This section will include a discussion of the unavoidable adverse impacts described in c above, the relative values placed upon these impacts, and where appropriate, an analysis of who or what is affected and to what degree affected.

f. *The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* The local short-term use of the environment involved in the proposed action in relation to its cumulative and long-term impacts. Special attention will be given to the relationship between the action and trends of similar actions which would significantly affect ecological interrelationships.

g. *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* Discuss and, where possible, quantify any irrevocable uses of resources including air, water, and land. The discussion will cover such factors as erosion, destruction of archaeological or historical sites, elimination of endangered species' habitat, and significant changes in land use.

h. *Alternatives to the proposed action.* The various alternatives considered by and available to the Department, taking into account the alternative of no action, and their environmental impacts. In addition and where appropriate, there will be a brief discussion of possible alternatives which are beyond the authority of the Department.

i. *Consultation and coordination in the development of the proposal and in the preparation of the Draft Environmental Statement.* Steps taken before publication of the Draft Environmental Statement to consult with the public, other agencies, and individual interests on the proposal.

j. *Coordination in the review of the Draft Environmental Statement.* The procedures used in disseminating the Draft Environmental Statement and a listing of those organizations and experts from whom comments have been requested. The final Environmental Statement will also identify those organizations and experts from whom comments were received, the disposition of the comments, and any unresolved conflicts; and a summary of any public response.

k. *Attachments.* All letters received commenting on the Draft Environmental Statement. (Final Statement only.)

G. *Coverage of Environmental Statements.* 1. Environmental Statements on appropriation requests will cover the following items:

a. *Proposed new facilities.* All facilities included in the proposed program for which planning has not been completed. Proposed new facilities will normally be presented in at least two environmental statements as they progress through the proposal, approval, and design cycles and will then drop out of the statement once the full proposal has been presented and evaluated in the environmental statement. This will allow input on environmental decisions at the earliest possible time in the planning of the facility and at the various successive planning stages.

b. *Maintenance Programs.* Environmental information on maintenance of existing facilities on a functional basis, including such items as reclearing of rights-of-way by cutting or herbicidal control, special programs to remove trash from rights-of-way, appearance improvement for existing transmission lines and substations, etc.

2. Coverage of Environmental Statements on other actions will be determined as needed.

H. *Procedures.* Although the steps involved in preparing Environmental Statements necessarily overlap and interact, they can be grouped into the following categories: (1) Issuance of instructions and preparation of environmetal data, (2) Preparation of a draft Environmental Statement, (3) Review of the draft Statement by other Federal, State, and local agencies with environmental concerns, (4) Review of the draft Statement by the public, and (5) Preparation and submittal of final Environmental Statement.

1. *Issuance of instructions and preparation of Environmental Data.* The Environmental Office will issue detailed instructions and a timetable for preparation of each Environmental Statement.

Based on these instructions, Divisions responsible for proposals to be covered by Environmental Statements will consolidate environmental data on the program elements involved. This data will normally be gathered as a routine part of the planning process. The environmental data will provide the basis for the Draft Environmental Statement.

Data on main grid transmission lines and substations will be supplied by the Division of Engineering and Construction; customer, area, and industrial service items by the Division of Engineering and Construction in consultation with the Area Manager involved; and programs for maintenance of existing facilities by the Division of Operation and Maintenance.

Environmental data will not normally be required on the following items:

All buildings or structures located within existing substations, or headquarters areas.

Appearance improvements affecting existing lines, substations, and headquarters areas.

Power system control facilities.

Addition of equipment to existing facilities.

Tools and equipment.

Trust funds.

However, extreme care must be taken to ensure that no environmentally significant items are excluded, and to this end each item will be reviewed for impact by the proposing office prior to exclusion.

2. *Preparation of a Draft Environmental Statement.* The environmental data prepared by the various divisions on individual items will be consolidated by the Environmental Office into a single draft Environmental Statement. Draft Environmental Statements will normally include all of the information that is planned for the final Statement except for comments received from reviewers. In other words, the Draft Statement is draft in the sense of "subject to change based on comments received" and not in the sense of "incomplete."

3. *Review of Draft Environmental Statement by other Federal, State, and local agencies.* The Environmental Office will prepare 15 copies of the Draft Environmental Statement for transmittal through the Assistant Secretary for Water and Power to the Assistant Secretary for Program Policy, accompanied by a FEDERAL REGISTER notice as described in paragraph H.4. Upon notification that the Assistant Secretary for Program Policy has transmitted the draft to the CEQ, distribution of draft Statements to Federal, State, and local agencies will be made. Agencies will be given at least 45 days in which to comment, after which time if no response or request for extension has been received, the agency may be presumed to have no comment. Copies of the Draft Environmental Statement will be distributed for review as follows:

a. *Federal agencies.* Copies of the Draft Environmental Statement will be prepared by the Environmental Office for transmittal to:

All bureaus of the Department of the Interior.

Environmental Protection Agency.

Federal Power Commission.

Other agencies with "Jurisdiction by law or special expertise with respect to any environmental impact involved.

b. *State agencies.* Review of draft Environmental Statements by State agencies will be accomplished through State clearinghouses established under the provisions of OMB Circular A-95. An up-to-date list of clearinghouses is maintained by the Environmental Office.

Copies of the Draft Statement will be distributed to the State clearinghouse in each of the Northwest States in BPA's service area by the Environmental Officer.

The letter transmitting the Draft Statement will request that the clearinghouse arrange a single meeting in each State between BPA and the interested State agencies. These meetings will provide for direct discussions between State agencies and BPA regarding the various proposals and their potential impact. They may be supplemented by meetings with individual State agencies on specific topics where appropriate. Representatives of the Division proposing the action and the Area Office involved will participate in all such meetings, with the Area Office taking the lead role.

c. *Local agencies.* Copies of the Draft Environmental Statement will be distributed by Area Managers to local governmental bodies in all jurisdictions concerned with the proposed action in accordance with the following:

In areas where metropolitan or district clearinghouses have been established under OMB Circular A-95, contact with local governmental agencies will be through these clearinghouses. The Draft Statement will be sent to the clearinghouse, which will distribute copies of the Statement to interested local agencies and will generally consolidate the replies that are made. In areas covered by these clearinghouses, no additional distribution of Draft Environmental Statements to local agencies (such as County Commissioners) will be required although additional distribution can be made at the discretion of the Area Manager.

In areas not covered by a clearinghouse, copies should be sent as appropriate to:

Boards of County Commissioners.
Mayors or City Councils.
County or City Planning Commissions.
Local or Regional Environmental Agencies.

Meetings with clearinghouse officials or local government agencies to discuss the proposed program will be held at the discretion of the Area Manager. However, if a local agency requests a conference, every effort should be made to comply. Conferences with local agencies should be coordinated with the division responsible for the proposed action so that all BPA personnel who should participate in the conference can be notified.

4. *Review of Draft Statements by the public.* Review of Draft Statements by the public will be accomplished by (1) announcement in the FEDERAL REGISTER and in appropriate newspapers throughout BPA's service area that copies for the public are available at Area, District, and Headquarters Offices and where appropriate, local libraries or public offices, and (2) public meetings near the site of the important proposed actions, where appropriate.

The press announcement making the Environmental Statement available to the public and a notice of the public meetings in the FEDERAL REGISTER will appear at least 30 days prior to the public meetings. The notice will invite the public to comment on the proposal by letter, in person at the Area, District, or Headquarters Offices, or at one of the public meetings.

At the time the Draft Statement is made available to the public, Area Managers will provide copies of the Draft Statement to environmental groups, such as regional or local environmental councils, with an invitation to comment. Contact with these groups will be coordinated by the Environmental Office.

Area Managers will provide the Environmental Office with copies of any written comments received, a summary of any oral comments, and a transcript of public meetings held by them in their area.

5. *Preparation of Final Environmental Statement.* After completion of the review process, the comments that have been received from other agencies and the public will be assembled by the Environmental Office. This information will be submitted to the Assistant Administrators of the program division(s) involved in the proposed action for review to determine, based on the comments received, (1) whether program or procedure adjustments are appropriate to further reduce environmental impacts and (2) whether additional or modified information should be included in the Final Environmental Statement.

After the resulting changes are made in the Draft Statement and the sections covering the comments received during the review are added, the Draft Statement becomes the Final Environmental Statement.

At that time, 15 copies of the Final Environmental Statement will be forwarded through the Assistant Secretary—Water and Power Resources to the Assistant Secretary for Program Policy. The statement will be accompanied by a draft notice of availability for inclusion in the FEDERAL REGISTER. Following the approval, the Assistant Secretary for Policy Planning and Research will forward the Statement to the Council on Environmental Quality.

After Departmental approval and formal transmittal of the Final Environmental Statement to the Council on Environmental Quality, copies of the final Statement will be supplied to the appropriate congressional committees and made available to the public.

H. *Timing.* Environmental Statements on budget items will be prepared and circulated in draft form by September 1 of the fiscal year before the year under consideration. Final Statements on these actions will be distributed after the President's budget transmittal but before any congressional hearings.

Final Environmental Statements on Administrative matters must be transmitted to the CEQ at least 30 days prior to the implementation of the proposed action.

In any case, final decisions or commitments on actions to be included in an Environmental Statement may not be made prior to completion and submittal of the Statement. In emergency cases where this procedure cannot be followed, special arrangements must be made with the Assistant Secretary for Program Policy and the Council on Environmental Quality.

[FR Doc.72-725 Filed 1-18-72;8:50 am]

Bureau of Land Management

PROPOSED OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE OFFSHORE EASTERN LOUISIANA

Inclusion of Alternatives to Proposed Action in Environmental Impact Statement

JANUARY 17, 1972.

In the FEDERAL REGISTER of October 28, 1971, the Bureau of Land Management, Department of the Interior announced the availability of a final environmental impact statement relating to a proposed Outer Continental Shelf General Oil and Gas Lease Sale. The environmental statement considers 86 tracts of Outer Continental Shelf lands in the Gulf of Mexico offshore Eastern Louisiana which have been identified for oil and gas leasing potential.

Notice is hereby given that an addendum has been prepared to section IV of this statement relating to alternatives to the proposed action.

Reading copies of this addendum to the Final Environmental Impact Statement are available in the Department of the Interior Communications Office, and the Bureau of Land Management's Information Office, both in the Interior Building in Washington, D.C.

It is also available in the Bureau of Land Management's New Orleans Office. Copies may be obtained for $1 each by writing to the Director, Bureau of Land Management (130), U.S. Department of the Interior, Washington, D.C. 20240, or the Manager, Bureau of Land Management Outer Continental Shelf Office, Post Office Box 53226, New Orleans, LA 70153.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

[FR Doc.72-885 Filed 1-18-72;8:51 am]

Office of the Secretary

[DES 72-2]

POTOMAC HERITAGE NATIONAL SCENIC TRAIL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Bureau of Outdoor Recreation has prepared a draft environmental statement for the proposed Potomac Heritage National Scenic Trail, Maryland-Virginia-District of Columbia-Pennsylvania-West Virginia. The environmental statement considers the probable impact of establishing a proposed Potomac Heritage National Scenic Trail which would extend 874 miles traversing the length of the Potomac River from the mouth at the Chesapeake Bay to its source in the Appalachian Mountains. Copies are available for inspection at the following locations:

Office of Communications, Room 7200, Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343-4662.
Division of Information, Bureau of Outdoor Recreation, Room 4129, Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343-5726.
Office of Regional Director, Bureau of Outdoor Recreation, 1421 Cherry Street, Philadelphia, PA 19102. Telephone: (215) 597-7989.
Office of Regional Director, Bureau of Outdoor Recreation, 810 New Walton Building, Atlanta, GA 30303. Telephone: (404) 526-4405.
State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, MD 21201.
State Clearinghouse, Pennsylvania State Planning Board, 503 Finance Building, State Capitol, Harrisburg, Pa. 17120.
State Clearinghouse, Virginia Division of Planning and Community Affairs, 1010 James Madison Building, Richmond, Va. 23219.
State Clearinghouse, Office of Federal-State Relations, Office of the Governor, Charleston, W. Va. 25305.
Metropolitan Clearinghouse, Metropolitan Washington Council of Governments, 1225 Connecticut Avenue NW., Washington, DC 20036.
Metropolitan Clearinghouse, Cambria County Planning Commission, Courthouse, Ebensburg, Pa. 15931.
Metropolitan Clearinghouse, Southwestern Pennsylvania Regional Planning Commission, 564 Forbes Avenue, Pittsburgh, PA 15219.

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151, and enclosing $3. Please refer to the statement number above.

Dated: January 11, 1972.

ROGER C. B. MORTON,
Secretary of the Interior.

[FR Doc.72-730 Filed 1-18-72;8:46 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

GIRLS' APPAREL SIZES

Notice of Circulation for Acceptance of a Recommended Standard

The National Bureau of Standards is giving public notice and circulating for public comment the following recommended standard (TS) for a determination of its acceptance to manufacturers, distributors, users, and consumers:

TS 117, "Body Measurements for the Sizing of Girls' Apparel"

This circulation is being made in accordance with the provisions of § 10.5 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as amended; 35 F.R. 8349 dated May 28, 1970).

Copies of this recommended standard may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services within 45 days following publication of this notice.

Dated: January 14, 1972.

LEWIS M. BRANSCOMB,
Director.

[FR Doc.72-861 Filed 1-17-72;2:46 pm]

Office of Import Programs

LEHIGH UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 602.5(e) (15 CFR 602.5) provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice [of denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of paragraph (d) of 15 CFR 602.5 is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 602.5(e) further provides:

> * * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 70-00630-01-77030. Applicant: Lehigh University, Department of Chemistry, Bethlehem, Pa. 18015. Article: NMR Spectrometer, Model R-20A. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 71-00401-99-25100. Applicant: University of Hawaii, Chemistry Department, 2545 The Mall, Honolulu, Hawaii 96822. Aritcle: Ultrasonic drill. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00421-33-90000. Applicant: University of Chicago, 5727 Ellis Avenue, Jones Laboratory, Chicago, IL 60637. Article: Rotating anode X-ray generator, Model GX-6. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00206-33-46500. Applicant: University of Maryland, School of Medicine, Department of Pathology, 660 West Redwood Street, Howard Hall, Baltimore, MD 21201. Article: Ultramicrotome, Model "Om U2". Date of denial without prejudice to resubmission: November 17, 1970.

Docket No. 70-00672-16-61800. Applicant: Vandalia-Butler City Schools, 366 South Dixie Drive, Vandalia, OH 45377. Article: Planetarium, Model Venus. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 70-00685-73-59600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Automat color processor, Model D7A. Date of denial without prejudice to resubmission: April 14, 1971.

Docket No. 70-00713-16-61800. Applicant: Tunkhannock Area School District, Philadelphia Avenue, Tunkhannock, PA 18657. Article: Planetarium, Mercury. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 70-00761-01-77040. Applicant: University of California, Lawrence Radiation Laboratory, Analytical Chemistry, 7000 East Avenue, Livermore, CA 94550. Article: Mass spectrometer, Model CH-5. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 70-00808-75-42900. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94304. Article: Split coil magnet. Date of denial without prejudice to resubmission: April 14, 1971.

Docket No. 70-00812-16-61800. Applicant: University of Wisconsin—Marathon County Campus, 518 South Seventh Avenue, Wausau, WI 54401. Article: Planetarium, Model Venus. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 70-00816-01-77040. Applicant: Rutgers, The State University, School of Chemistry, Wright Laboratory, New Brunswick, N.J. 08903. Article: Mass spectrometer, Model RMU-7. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 70-00824-65-90000. Applicant: Battelle Memorial Institute, Pacific Northwest Laboratories, Post Office Box 999, Richland, WA 99352. Article: Rotating anode X-ray generator, Model RV-3V. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 71-00024-82-01200. Applicant: U.S. Department of Labor, 5111 West 164th Street, Cleveland, OH 44142. Article: Miniature sound level meter and portable acoustic calibrator. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00081-80-30500. Applicant: Southwest Research Institute, 8500 Culebra Road, San Antonio, TX 78228. Article: Electromagnetic induction test unit. Date of denial without prejudice to resubmission: April 9, 1971.

Docket No. 71-00114-33-46500. Applicant: Rutger's University, Rutger's Medical School, New Brunswick, N.J. 08903. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00179-33-90500. Applicant: Veterans' Administration Hospital, Chief Supply Division, Building 222, Fort Snelling, St. Paul, Minn. 55111. Article: Vacuum press tool, Model 8. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00181-33-46096. Applicant: Children's Hospital of Philadelphia, 1740 Bainbridge Street, Philadelphia, PA 19146. Article: One microscope set, three pieces. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00204-88-43000. Applicant: Montana State University, Bozeman, Mont. 59715. Article: Astatic magnetometer NY-2 with optical lamp scale, sample stage and coil calibration set. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00215-16-61800. Applicant: Bays Mountain Nature Center, City Hall Building, 225 West Center Street, Kingsport, TN 37660. Article: Planetarium, Model Venus. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00262-00-61060. Applicant: South Dakota State University, Brookings, S. Dak. 57006. Article: Slip

rings with brushes. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00263-33-46500. Applicant: University of Pennsylvania, Center for Oral Health Research, 4001 Spruce Street, Philadelphia, PA 19104. Article: Ultramicrotome, Om U2. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00272-33-46500. Applicant: Georgetown University Medical School, Department of Obstetrics-Gynecology, 3800 Reservoir Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: April 21, 1971.

Docket No. 71-00289-38-25100. Applicant: Princeton University, Post Office Box 33, Princeton, NJ 08540. Article: Display system (educational equipment). Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00301-65-46040. Applicant: University of Connecticut, Institute of Materials Science, Storrs, Conn. 06268. Article: Electron microscope, HU-200F-. Date of denial without prejudice to resubmission: April 26, 1971.

Docket No. 71-00305-65-25100. Applicant: University of Missouri at Rolla, General Services Building, Purchasing Department, Rolla, Mo. 65401. Article: Boron carbide mortar and pestle. Date of denial without prejudice to resubmission: April 26, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-786 Filed 1-18-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

Notice to Manufacturers, Packers, and Distributors

The rapid growth in development of in vitro diagnostic products combined with the increasing use and reliance on the results by physicians, hospital personnel, and clinical laboratories, indicates that, except for the in vitro diagnostic products controlled through the licensing procedure pursuant to section 351 of the Public Health Service Act, these products need closer scrutiny because of the possibility that inaccurate and unreliable results may be obtained.

In vitro diagnostic products are those reagents, instruments, and kits which perform no anatomical, physiological, or therapeutic function, which are not injected into humans, and which are used solely to provide information on specimens taken from the human body.

Since these products are used for the diagnosis of disease in man, they clearly fall under the jurisdiction of the Federal Food, Drug, and Cosmetic Act and in addition, for those products subject to the biological control provisions of the PHS Act, under the jurisdiction of section 351 of such act. Appropriate guidelines are necessary to insure that such products deliver a consistently high level of quality and performance. The Federal Food, Drug, and Cosmetic Act provides clear authority to exercise appropriate regulatory controls over these products as devices and/or drugs. With respect to diagnostic products subject to licensing under the PHS Act this regulatory control will continue to be exercised by the Division of Biologics Standards, NIH, PHS. (In vivo diagnostic products are presently controlled under the Federal Food, Drug, and Cosmetic Act as drugs.)

The Food and Drug Administration believes that in order to assure users that results obtained through the use of these products are accurate and consistent and that their labeling claims conform to the purpose for which they are intended, it is necessary that scientific evidence be documented to clearly demonstrate the usefulness and reliability of these products to the health community. Tests, standards, and other controls must be developed to assure a high level of product quality, safety, and effectiveness.

The Food and Drug Administration will in the near future propose regulations governing in vitro diagnostic products. In the interim manufacturers, except those holding a license for biological diagnostic products, packers, and distributors of other in vitro diagnostic products should (1) seek or assemble evidence to demonstrate that such products are accurate and reliable, and thus safe and effective, and conform to appropriate good manufacturing practices in the manufacture, processing, packing, or holding of such products, (2) carefully test and evaluate such products prior to marketing in order to assure the dependability and consistency of results when used in accordance with their directions for use, and verify results against a generally accepted analytical test used for the same purpose, (3) perform adequate premarket testing to determine whether any predisposing test conditions or patient abnormalities will affect the test so as to give inaccurate or undependable results, and (4) assure that the labeling for in vitro diagnostic products contains adequate directions for use so that such tests can be properly conducted by the user and, when followed, produce accurate, precise, and reliable data.

Labeling directions should include complete information on the accuracy, reproducibility, and sensitivity performance of such results as well as a complete description of external conditions and patient abnormalities which may affect the accuracy of such results. The degree of false positive and false negative results and, where such exist, specific directions for verifying test results should be clearly indicated. For products which consists of or include mechanical, electronic or other instrumentation to obtain results, the labeling should provide clear instruction for calibration and routine maintenance of such products. For reagents and chemicals used for such diagnostic purposes, the labeling should contain information on proper shipping, storage, and shelf life under conditions of normal use. For products which yield qualitative information only, the labeling should explain that test results are limited to indicative rather than definitive or quantitative information.

The failure to conduct premarketing tests that are adequate and appropriate to demonstrate that such a diagnostic product is safe and effective under its labeling may cause the product to be misbranded under section 502(j) of the Federal Food, Drug, and Cosmetic Act, and would in any event cause it to be misbranded under sections 201(n) and 502(a) of the act unless the label bears a conspicuous front panel statement that the product has not been adequate tested for safety and may be unsafe and/or ineffective, and would cause any such product which is a drug to be in violation of section 505 of the Act.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502(a), 502(j), 701(a), 52 Stat. 1041, 1050, 1051, 1055; 21 U.S.C. 321(n), 352(a), 352(j), 371(a)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 17, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-844 Filed 1-18-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 72-6]

NORFOLK HARBOR, VA.

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters as contained in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of H. E. Steel, Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads Area, Va., who has exercised authority as Captain of the Port, such order reading as follows:

NORFOLK HARBOR, VA.

SECURITY ZONE

Under the present authority of section 1, of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 0900R January 21, 1972, until 1100R January 21, 1972, the following

area is a Security Zone and I order it be closed to any person or vessel due to transit of the U.S.S. *America*.

The waters of the Elizabeth River, Norfolk Harbor, Va., within the area between Elizabeth River Channel Lighted Buoy 14 LL 2952 at latitude 36°55'08" N. and the Norfolk and Portsmouth Beltline Railroad Bridge which crosses the Southern Branch of the Elizabeth River at latitude 36°48'41" N.

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port, 393-9611, Ext. 220.

The Captain of the Port, Hampton Roads Area, shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal Agency or of any other State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of 15 June 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If the owner, agent, master, officer, or person in charge or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for the violations of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: January 14, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-781 Filed 1-18-72;8:48 am]

[CGFR 72-2]

UNION PACIFIC RAILROAD CO. BRIDGE, COLUMBIA RIVER

Notice of Public Hearings Concerning Proposed Bridge Alteration; Correction

In F.R. Doc. 71-18986 published at page 25174 in the issue of Wednesday, December 29, 1971, the public hearing dates now reading "February 2 and 3, 1971" should read "February 2 and 3, 1972" wherever appearing in the first paragraph.

Dated: January 11, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-755 Filed 1-18-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Notice of Availability of Applicant's Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that three reports entitled "Applicant's Environmental Report Supplements—Operating License Stage—Pilgrim Nuclear Power Station" submitted by the Boston Edison Co. are being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Plymouth Public Library, North Street, Plymouth, Mass. 02360. The reports are also being made available to the public at the Office of Planning and Programing Coordination, 209 Leverett Saltonstall Building, 100 Cambridge Street, Boston, MA 02202 and at the Southeastern Massachusetts Regional Planning and Economic Development District, 68 Winthrop Street, Taunton, MA 02780.

These reports discuss environmental considerations related to the proposed operation of the Pilgram Nuclear Power Station located on the western shore of Cape Cod Bay in the town of Plymouth, Mass. Notice of Availability of the Applicant's Environmental Report dated September 14, 1970, was published in the FEDERAL REGISTER on October 16, 1970 (35 F.R. 16289). Copies of the environmental report are also available at the above locations.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft detailed statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 12th day of January 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Division of Reactor Licensing.

[FR Doc.72-723 Filed 1-18-72;8:45 am]

[Dockets Nos. 50-324, 50-325]

CAROLINA POWER AND LIGHT CO.

Notice of Availability of Applicant's Supplemental Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Environmental Report—Brunswick Steam Electric Plant Units 1 and 2" submitted by the Carolina Power and Light Co., is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Southport-Brunswick County Library, 109 West Moore Street, Southport, NC 28461. The report is also being made available to the public at the Office of the Planning Coordinator, Clearinghouse and Information Center, Post Office Box 1351, Raleigh, NC 27602, and the Cape Fear Council of Local Governments, Room 509, CP&L Building, Wilmington, NC 28401.

This report discusses environmental considerations related to the construction of the Brunswick Steam Electric Plant Units 1 and 2 located in the town of Southport, Brunswick County, N.C. After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 7th day of January 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Division of Reactor Licensing.

[FR Doc.72-724 Filed 1-18-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 24122, etc.; Order 72-1-42]

AUTOMOTIVE CARGO INVESTIGATION ET AL.

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of January 1972.

Automotive Cargo Investigation, Docket 24122; in the matter of Universal Airlines, Inc., exemption authority; Docket 23128; application of Ortner Air Service,

Inc., for a disclaimer of jurisdiction or, in the alternative, an exemption, Docket 22939.

On February 22, 1971, The Flying Tiger Line Inc. (Flying Tiger), filed a motion (Docket 23128) for an order to show cause why Universal Airlines, Inc.'s (Universal), automotive exemption authority[1] should not be amended or revoked, and why Universal should not be required to terminate its present arrangements for the movement of automotive exemption freight by operators which lack Board authorization to engage in air transportation.

In support of its motion, Flying Tiger states, inter alia, that Universal is simultaneously conducting supplemental air transportation and individually waybilled services pursuant to the automotive exemption, and that these operations are performed, in part, for the same customers with the same equipment, personnel, and facilities; that Public Law 87-528 prohibits the performance of individually waybilled services by supplemental air carriers, except pursuant to section 417 of the Act; that the Board erred in continuing Universal's exemption after this law became effective; that most of Universal's on-demand exemption traffic is handled by a subservice arrangement with other operators, leaving Universal free to concentrate on individually waybilled operations; that Universal is acting as a forwarder or indirect air carrier by arranging for the movement of exemption freight by itinerant carriers;[2] and that there are a number of agreements with a variety of itinerant operators providing for the subservice carriage of automotive freight, none of which have been filed with the Board.[3]

On March 22, 1971, Universal Airlines, Inc., filed an answer in opposition to Flying Tiger's motion which disagrees with Flying Tiger's legal conclusions and alleges that neither Flying Tiger nor any other certificated route carrier could meet the needs of the automotive manufacturers.[4]

On December 24, 1970, Ortner Air Service, Inc., and air taxi operator and Part 121 commercial operator, filed an application in Docket 22939 requesting the Board to disclaim jurisdiction over certain large aircraft operations on the ground that these operations were not common carriage. In the alternative, Ortner requests an exemption to the extent necessary to permit it to operate large aircraft in the same manner as it presently operates. Except for a limited number of charters, Ortner's large aircraft operations involve the carriage of automotive industry cargo obtained directly from the three principal automotive manufacturers or carried on behalf of Universal Airlines which obtained the cargo from the automobile manufacturers pursuant to long-term contracts.

In support of its application, Ortner alleges, inter alia, that none of the traffic it carries is in common carriage; and that if the traffic it carries for Universal is in common carriage, this activity is limited in scope and unusual circumstances are present.

On January 11, 1971, American Airlines, Saturn Airways, Trans International Airlines, and The Flying Tiger Line filed answers in opposition to Ortner's application. The answers allege that since Universal's operations are in common carriage, Ortner's are also; that Ortner is a common carrier by reason of its numerous customers; and that an exemption is not warranted in this case.[5]

Upon consideration of the pleadings and all the relevant facts, we have decided to deny Flying Tiger's motion for an order to show cause (Docket 23128),[6] and to institute an investigation of the carriage of automotive cargo by air. We will consolidate therein Ortner's application in Docket 22939. This investigation, designated the Automotive Cargo Investigation, is instituted pursuant to sections 204(a), 416(b), 412, 408, and 401(d)(3) of the Federal Aviation Act of 1958, as amended, and will include the following issues: (1) Should Universal's automotives exemption authority[7] be amended or revoked;[8] (2) is Universal Aircraft Services, Inc. (Services) acting as an indirect air carrier with regard to automotive cargo, and if so, should it receive Board authorization for this operation; (3) do the relationships between Universal, Services, and the Part 121 commercial operators (Ortner et al.) that perform services for Universal and the auto companies fall within the Board's jurisdiction and, if so, what action, if any, should be taken by the Board with regard to these relationship; (4) does Universal have any agreements with Part 121 commercial operators which are subject to section 412 of the Act and which have not been filed with the Board pursuant to that section; (5) are the operations of Ortner and other similarly situated carriers subject to the Board's jurisdiction and, if so, should such operations be authorized.

It has been almost 10 years since the Board originally granted Universal its automotive exemption. It appears from the pleadings in Dockets 23128 and 22939, that Universal's automotive operations may have changed significantly. Universal itself has changed from a small cargo carrier to a large passenger/cargo carrier. In light of these facts, a second look at Universal's automotive exemption operations seems warranted. The facts, as they appear from the pleadings, are sufficiently clouded to require a public hearing before the Board decides what action, if any, to take in light of the Flying Tiger Motion and the Ortner application.

Accordingly, it is ordered, That:

1. An investigation designated the Automotive Cargo Investigation, be and it hereby is instituted in Docket 24122, pursuant to sections 204(a), 416(b), 412, 408, and 401(d)(3) of the Federal Aviation Act of 1958, as amended, to consider the following issues: (1) Should Universal's automotive exemption authority be amended or revoked; (2) is Universal Aircraft Services, Inc. (Services), acting as an indirect air carrier with regard to automotive cargo and, if so, should it receive Board authorization for this operation; (3) do the relationships between Universal, Services, and the Part 121 commercial operators (Ortner et al.) that perform services for Universal and the auto companies fall within the Board's jurisdiction and, if so, what action, if any, should be taken by the Board with regard to these relationships; (4) does Universal have any agreements with Part 121 commercial operators which are subject to section 412 of the Act and which have not been filed with the Board pursuant to that section; and (5) are the operations of Ortner and other similarly situated carriers subject to the Board's jurisdiction and, if so, should such operations be authorized.

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[1] Universal's exemption authority authorizes the carriage of various cargo for Ford, General Motors, and Chrysler, between the main plants in Detroit and various other plants in certain named cities, pursuant to contracts with the auto manufacturers, subject to certain conditions. See 36 C.A.B. 139 (1962), Order E-26021, dated Nov. 22, 1967.

[2] Flying Tiger cites five such operators, Ortner Air Service, Shamrock Airlines, Cryderman Air Service, TRD Flying Service, and Span East.

[3] Answers in support of Flying Tiger's motion have been filed by Trans World Airlines, Inc., American Airlines, Inc., and United Air Lines, Inc.

[4] On Apr. 2, Flying Tiger filed a reply, accompanied by a motion for leave to file an unauthorized document. In the reply, Flying Tiger states that although it cannot provide all the services which the automotive manufacturers require, it can provide all the services that Universal is now providing since these are basically scheduled services. We shall grant Flying Tiger's motion to file this reply.

[5] In addition, Flying Tiger argues that Ortner's operations are just one phase of Universal's illegal automotive cargo operations. Ortner filed a copy to these answers stating that Universal's activities have never been held to be in common carriage; and that none of the answering carriers are in a position to satisfy the unique requirements of the service which Ortner provides. Universal has filed a motion for leave to file an unauthorized document and a reply to Flying Tiger's answer. Universal's motion states that it would be unfair to let Flying Tiger's charges go unrebutted. Flying Tiger states that Universal has not shown good cause for leave to file an unauthorized document and that Universal's reply is unresponsive. Universal filed an answer to Flying Tiger's motion to strike. Flying Tiger's motion to strike will be denied.

[6] Flying Tiger's motion raises issues of law and fact which we believe can best be decided after a more comprehensive investigation than that contemplated in Flying Tiger's motion.

[7] See 36 C.A.B. 139 (1962); 37 C.A.B. 12 (1962); Order E-23350, dated Mar. 11, 1966; Order E-26021, dated Nov. 22, 1967.

[8] This issue includes, inter alia, the following subsidiary issues: (a) are the services performed by Universal directly or indirectly for the automotive companies common carriage and, if so, are they charter services or individually waybilled services; and (b) if the services performed for the automotive companies are individually waybilled services, does the Board have the authority to permit Universal to perform them.

2. The application of Ortner Air Service, Inc., in Docket 22939, be and it hereby is consolidated with the above investigation;

3. The motion of The Flying Tiger Line Inc., for an order to show cause filed in Docket 23128 be and it hereby is denied;

4. The motion of Flying Tiger for leave to file an otherwise unauthorized document in Docket 23128 be and it hereby is granted;

5. The motion of Universal for leave to file an otherwise unauthorized document in Docket 22939 be and it hereby is granted;

6. The motion of Flying Tiger to strike in Docket 22939 be and it hereby is denied;

7. Universal Airlines, Inc., Universal Aircraft Services, Inc., The Flying Tiger Line Inc., Ortner Air Service, Inc., Shamrock Airlines, Cryderman Air Service, TRD Flying Service, and Span East are hereby made parties to this proceeding;

8. Motions to consolidate, applications, and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days after the service of this order and answers to such pleadings shall be filed no later than 10 days thereafter;

9. The proceeding herein will be assigned for hearing before an Examiner of the Board at a time and place to be hereafter designated; and

10. A copy of this order shall be served upon the parties named in paragraph (7) above, as well as Trans World Airlines, Inc., American Airlines, Inc., United Air Lines, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Ford Motor Company, General Motors Corp., and Chrysler Corporation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-810 Filed 1-18-72;8:50 am]

[Docket No. 24112; Order 72-1-46]

BRANIFF AIRWAYS, INC.

Order of Investigation and Suspension Regarding U.S. Mainland-Hawaii First Class Excursion Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of January 1972.

By tariff revisions [1] marked to become effective January 15 and 23, 1972 Braniff Airways, Inc. (Braniff), proposes to establish first-class round-trip excursion fares between 18 southern and southwestern U.S. cities [2] and Honolulu. The fares reflect a 25-percent discount from regular first-class fares, and range from $36 to $58 above peak round-trip coach fares and $40 to $85 above off-peak fares. The proposed fares have a 6-day minimum-stay and 21-day maximum-stay limitation, and reservations must be made at least 7 days prior to the date of departure. The fares apply at all times and are marked to expire December 15, 1972. Continental Air Lines, Inc. (Continental), has filed to match Braniff in competitive markets,[3] and Delta Air Lines, Inc. (Delta), and National Airlines, Inc. (National), jointly with Continental, Pan American World Airways, Inc. (Pan Am), and Western Air Lines, Inc. (Western), have filed fares matching Braniff in seven markets.

In support of its proposal, Braniff asserts that its first-class load factors in the Hawaiian market are poor (approximately 13 percent) with first-class traffic accounting for about 8 percent of total traffic. It feels its proposed first-class excursion fares may provide a needed stimulus to first-class travel, and while it has made no estimate of the generative effect of the proposal, it believes this type of fare will prove to be beneficial in the longer haul Hawaii markets.

National has complained against the proposed fares requesting investigation and suspension. National alleges that Braniff has failed to provide economic data upon which to judge the reasonableness of the fares and as such does not meet the Board's requirements for economic justification. It further asserts that offering first-class service at fares slightly above coach fares will result in first-class yield dilution which can only threaten the carriers' ability to cover costs. National also questions the soundness, over the long term, of encouraging discounting of first-class service since such a practice will be difficult to discontinue and may become the normal first-class fare level.

Braniff answered the complaint alleging that one of the major purposes of the proposed first-class excursion fare is to encourage those passengers who are only moderately price conscious to upgrade from coach to first class. Braniff also alleges that while National elects to compare the proposed first-class excursion fares with regular coach fares, a far more valid comparison is between the proposed first-class excursion fares and existing coach excursion fares. It asserts that its proposed fares are 24 percent to 29 percent above coach excursion fares from Florida points and 10 percent to 19 percent above those from New Orleans and that such differentials are generally in line with existing first-class—coach fare differentials.

Upon consideration of the tariff filings the complaint and answer thereto, and all relevant matters, the Board has determined that the proposed first-class excursion fares may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed fares should be suspended pending investigation.

It has been the Board's policy to permit the carriers considerable discretion in experimenting with promotional fares, where such fares do not appear unreasonable or otherwise unlawful. In our view, however, there is considerable question whether the fares proposed herein, which are only 7 to 16 percent higher than the corresponding normal peak coach fares, are reasonably related to the costs of providing the service. We believe it likely that much of the first-class traffic to Hawaii meets the restrictions applicable to the proposed first-class excursion fares, and the fares may in effect become the basic first-class fares. Moreover, we are not persuaded that the revenue loss resulting from the use of the proposed excursion fares by first-class passengers who otherwise would have paid the higher normal fares will be offset by coach passengers upgrading to the higher-fared service.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A [4] and rues, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A, are suspended and their use deferred to and including April 13, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated;

4. Except to the extent granted herein, the complaint in Docket 24054 is dismissed; and

5. Copies of this order be filed with the aforesaid tariff and be served upon Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., National Airlines, Inc., Pan American World Airways, Inc., and Western Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-808 Filed 1-18-72;8:50 am]

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[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs CAB Nos. 136 and 142.

[2] Amarillo, Atlanta, Austin, Brownsville, Corpus Christi, Dallas, Fort Smith, Houston, Little Rock, Lubbock, Memphis, Miami, Nashville, New Orleans, Oklahoma City, San Antonio, Tampa, and Tulsa.

[3] Continental's proposed fares in five markets are lower than those proposed by Braniff reflecting Continental's more direct route authority, and are consistent with Continental's regular fares.

[4] Dissenting statement and Appendix A filed as part of the original document.

[Dockets Nos. 12474, 11164; Order 72-1-41]

KODIAK AIRWAYS, INC., AND WESTERN ALASKA AIRLINES, INC.

Order To Show Cause Regarding Service Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of January 1972.

By this order, the Board proposes to amend Order 71-4-81, dated April 13, 1971, to increase the terminal charges reflected in the future period service mail rate proposed for Western Alaska. Order 71-4-81 directed all interested persons and particularly Kodiak Airways, Inc., Western Alaska Airlines, Inc., and the Postmaster General to show cause why the Board should not adopt the final service mail rates proposed therein for the transportation of mail over the intra-Alaska routes of the two carriers for past and future periods. On April 26, 1971, Western Alaska filed an objection to the show cause order; however, Kodiak did not object to the proposed rates. By a joint motion filed August 13, 1971, the PMG, Kodiak, and Western Alaska requested the Board to grant them leave to amend their joint petition of May 22, 1970, on which the rates proposed in Order 71-4-81 were based, to reflect additional storage and handling costs incurred by Western Alaska at the Dillingham and King Salmon terminals as a result of new requirements imposed on the carrier by the PMG. The parties also requested the Board to issue a new show cause order to reflect the inclusion of the additional costs in the future period rate proposed for Western Alaska. Under this proposal, the terminal charge for Western Alaska would be increased to 10 cents per pound from 7.5 cents per pound for the first 200,000 originating mail pounds per year, and to 7.5 cents per pound from 5 cents per pound for the second 200,000 originating mail pounds per year, and would remain 2.5 cents per pound for originating pounds in excess of 400,000 during the year. In all other respects, the rates proposed in Order 71-4-81 for Kodiak and Western Alaska would remain the same. As shown in revised Appendix A, the foregoing increases in terminal charges would increase Western Alaska's estimated yield to $5.73 per ton-mile from the $5.11 per ton-mile yield reflected in Appendix A[1] to Order 71-4-81. The increased terminal charges would compensate the carrier for approximately $10,000 of additional storage and handling costs, which is the amount of such costs agreed to by the PMG and Western Alaska (see Appendix B)[1] for new services performed for the benefit of the PMG at Dillingham and King Salmon.

Based on our review of the new information supplied with the joint motion of August 13, 1971, together with all other relevant data, and reflecting the same considerations regarding the Board's responsibility in establishing fair and reasonable service mail rates where the rates have been negotiated at arm's length by the PMG and the carriers, as those shown in Order 71-4-81, the proposed increases in terminal charges do not appear unreasonable. Accordingly, we propose to amend Order 71-4-81 to reflect the increased terminal charges in Western Alaska's future rate.

PROPOSED FINDINGS AND CONCLUSIONS

On the basis of the foregoing, the Board tentatively finds and concludes that Order 71-4-81, shall be amended in the following manner:

1. Delete the language in paragraph 2(a) on page 4 thereof and substitute therefor the following language:

(a) Terminal charges for Kodiak Airways, Inc., of 7.5 cents per pound for the first 200,000 originating mail pounds per year, of 5 cents per pound for the second 200,000 originating mail pounds per year, and of 2.5 cents per pound for any mail pounds in excess of 400,000 pounds originating during the year; and terminal charges for Western Alaska Airlines, Inc., of 10 cents per pound for the first 200,000 originating mail pounds per year, of 7.5 cents per pound for the second 200,000 originating mail pounds per year, and of 2.5 cents per pound for any mail pounds in excess of 400,000 pounds originating during the year.

2. In the payment formula table, on page 5 of the order, under the heading of unit rates for Western Alaska, change 7.5 cents to 10 cents and 5 cents to 7.5 cents.

3. Substitute revised Appendix A attached to this order for Appendix A attached to Order 71-4-81.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the Board's Procedural Regulations, 14 CFR Part 302,

It is ordered, That:

1. All interested persons, and particularly Kodiak Airways, Inc., Western Alaska Airlines, Inc., and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and amend the final rates specified in Order 71-4-81, as provided herein.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the amendments or to the findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 30 days after date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and in Order 71-4-81 and fix and determine the final rates specified in Order 71-4-81, as amended herein.

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. This order shall be served upon Kodiak Airways, Inc., Western Alaska Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-811 Filed 1-18-72;8:51 am]

[1] Filed as part of the original document.

[Docket No. 24090; Order 72-1-38]

WTC AIR FREIGHT

Order of Investigation and Suspension Regarding Specific Commodity Rate Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of January 1972.

By Order 71-12-141 the Board suspended and set for investigation in Docket 24090 increases in freight rates proposed by WTC Air Freight (WTC), an air freight forwarder. This order of investigation and suspension did not include certain pages that had been rejected for technical reasons and that had been refiled for effectiveness on January 14 and 21, 1972. The Board finds that, for the same reasons set forth in Order 71-12-141, WTC's refiled proposed increases should be suspended and set for investigation.

Upon consideration of the foregoing, and all relevant factors, the Board finds that the increased rates proposed by WTC may be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and the Board will institute an investigation of the rates and suspend them for a period of 90 days. The investigation of these tariff proposals will be included as a part of the investigation in Docket 24090 initiated by Order 71-12-141.

Accordingly, it is ordered, That:

1. An investigation be instituted to determine whether the rates, charges, and provisions described in Appendix A,[1] and rules, regulations, and practices affecting such rates, charges, and provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful rates, charges and provisions, and rules, regulations, or practices affecting such rates, charges and provisions;

2. Pending hearing and decision by the Board, the rates, charges and provisions described in Appendix A are suspended and their use deferred to and

[1] Filed as part of the original document.

including April 12, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation instituted herein be consolidated into the proceeding initiated in Docket 24090 by Order 71-12-141; and

4. Copies of this order shall be filed with the tariffs and served upon WTC Air Freight.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-809 Filed 1-18-72;8:50 am]

[Docket No. 23486; Order 72-1-26]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority January 11, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 and Joint Conferences 2-3 and 1-2-3 of the International Air Transport Associaiton (IATA). The agreement, which has been assigned the above-designated C.A.B. agreement number, was adopted for early effectiveness at December 1971 meeting held in Geneva.

The subject agreement incorporates several resolutions not directly applicable in air transportation by including specified fares between selected points in Europe/Africa and the Middle East, and between those areas and the Far East, and by amending creative fares within Europe/Africa and the Middle East which are not combinable with fares in air transportation. Other resolutions relate to administrative, procedural, or technical provisions which do not affect basic fare levels.

Pursuant to authority duly delegated by the Board in the Board's economic regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that the following resolutions are adverse to the public interest or in violation of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-139	001bb	JT23 Special Effectiveness Resolution (New)	2/3
R-140	007b	JT23 and JT123 Deferred Vote (New)	2/3; 1/2/3

2. It is not found that the following resolutions, which do not directly affect air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-133	052I	TC2 First Class Fares (Amending)	2
R-134	052II	TC2 First Class Fares (Amending)	2
R-135	062I	TC2 Economy Class Fares (Amending)	2
R-136	062II	TC2 Economy Class Fares (Amending)	2
R-141	055	Joint Conference 2/3 First Class Fares (Amending)	2/3
R-142	065	Joint Conference 2/3 Economy Class Fares (Amending)	2/3
R-187	001g	Europe-Middle East and Within Middle East Escape (New)	2

3. It is not found that the following resolutions affect air transportation within the meaning of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-137	072b	TC2 Creative Fares—Except Europe (Amending)	2
R-138	072g	TC2 Creative Fares Board—Europe (Amending)	2
R-143	071a	JT23 120 Day Creative Fares From Bahrein, Basra, Dhahran, Doha, Dubai, Kuwait, and Muscat to India, Pakistan, and Ceylon (Amending).	2/3
R-185	071t	JT23 90 Day Excursion Fares—South East Asia to Europe (New)	2/3
R-186	071u	JT23 180 Day Excursion Fares—Australia/New Zealand-Europe/Middle East.	2/3; 1/2/3
R-188	001LL	TC2 Special Escape Resolution (New)	2

Accordingly, it is ordered, That:

1. Action on that portion of the agreement as set forth in finding paragraph 1 be and hereby is deferred with a view toward eventual approval;

2. That portion of the agreement as set forth in finding paragraph 2 be and hereby is approved; and

3. Jurisdiction is disclaimed with respect to those portions of the agreement described in finding paragraph 3.

Persons entitled to petition the Board for review of this order, pursuant to the Board's economic regulations, 14 CFR 385.50, may, within ten days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-714 Filed 1-18-72;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Notice of Proposed Addition to Initial List

Notice is hereby given pursuant to section 2(a)(2) of the Act to Create a Committee on Purchases of Blind-Made Products, as amended, 85 Stat. 79, of the proposed addition of the following commodities and services to the Initial Procurement List published on pages 16982 through 16997 of the FEDERAL REGISTER of August 26, 1971.

Class 1670:
Message dropper, plastic — 1670-797-4495

Class 2640:
Kit, repair, inner tube — 2640-204-3881

Class 3510:
Net, laundry — 3510-204-2356

Class 3740:
Mousetrap, spring — 3740-252-3384

Class 4510:
Kit, repair, faucet (metal) — 4510-329-8520
Dispenser, paper towel — 4510-013-8098
—Do — 4510-224-8549
—Do — 4510-585-6305
—Do — 4510-893-6906

Class 5120:
Carpenters wood mallet (tinner) — 5120-222-2211
Carpenters wood mallet (carpenter) — 5120-293-3396
Hawk, plasterers — 5120-243-2978
Handles, axe
Handles, shovel

Class 5130:
Pad, lambswool, with drawstring — 5130-429-7852
Wheel, buffing, 6-inch muslin buffer — 5130-640-6232

Class 5140:
Roll, tool, repairman's (nine pocket tool wrap) — 5140-408-0656
Pouch, lineman's tool — 5140-498-8898

Class 5440:
Shoes, ladder, swivel — 5440-693-8992
Shoes, ladder, brass base and side plates — 5440-814-6048
Shoes, ladder, steel base and side plates — 5440-814-6049

Class 6230:
Light, desk, gooseneck, incandescent — 6230-643-2076
Light, desk, fluorescent, pedestal base — 6230-643-2077
Light, extension, trouble light, guard, cord — 6230-162-1227
Light, extension, trouble, guard, cord — 6230-164-7061

Class 6840:
Deodorant — 6840-753-4556

Class 7105:
Stool, step, chrome finish frame — 7105-680-0996
Stool, step, bronze color frame — 7105-964-6823

Class 7240:
Frame, cloth basket, folding steel frame for supporting laundry bags — 7240-053-9711
Do — 7240-984-5731
Bag, soiled linen — 7240-286-5345
Bags, for waste trucks — 7240-318-5374
Basket, frame mounted — 7240-730-3400

Class 7290:	
Dust Pans	7290–132–7775
Do	7290–224–8308
Do	7290–634–1996
Class 7520:	
Box, index, card	7250–234–6356
Do	7520–285–3143
Do	7520–285–3147
Shelf, filing, masonite	7520–634–5922
Class 7920:	
Floor squeegees	7920–254–8295
Do	7920–530–5740
Do	7920–965–4873
Class 8020:	
Mitt, paint	8020–721–9363
Class 8105:	
Bag, waste receptacle	8105–050–7266
Bag, lunch	8105–664–3715
Bag, trash	8105–782–4001
Do	8105–782–4002
Class 8135:	
Tags, shipping (all sizes)	
Class 8340:	
Pin, tent (9" Aluminum tent pin)	8340–261–9749

SERVICES

Office Machine Repair.
Coin Packaging Service.
Janitorial/Custodial Services.
Food Services.
Mailing Services, Washington, D.C.
Microfilm Cartridge Stripping.
Repackaging and Marking Warehouse Stock Items, Stockton, California.
Test Leads.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed addition may be filed with the Committee. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 1511 K Street NW., Washington, DC 20005.

By the Committee.

L. F. DONAHUE,
Acting Executive Director.

[FR Doc.72–754 Filed 1–18–72;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1219) has been filed by FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing the establishment of a tolerance (21 CFR Part 180) for combined residues of the insecticide carbofuran and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7- benzofuranyl N-methylcarbamate in or on the raw agricultural commodity peppers at 1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic technique using a nitrogen-specific detection system.

Dated: January 13, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–741 Filed 1–18–72;8:47 am]

MERCK, SHARP & DOHME

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued.

In accordance with § 180.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (40 CFR 180.8), Merck, Sharp & Dohme, a division of Merck & Co., Inc., Rahway, N.J. 07065, has withdrawn its petition (PP 1F1110), notice of which was published in the FEDERAL REGISTER of April 28, 1971 (36 F.R. 7993), proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the fungicide phenylmercuric ammonium acetate (calculated as mercury) in or on the raw agricultural commodities barley, cottonseed, flaxseed, oats, rice, sorghum, and wheat at 0.05 part per million.

Dated: January 13, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–742 Filed 1–18–72;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CP71–299]

GREAT LAKES TRANSMISSION CO.

Notice of Supplement to Application

JANUARY 17, 1972.

Take notice that on January 14, 1972, Great Lakes Transmission Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP71–299 a supplement to its pending application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act which sets forth the rate and supporting data for the transportation of certain volumes of natural gas by applicant for Northern Natural Gas Co., all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

In the instant proceeding applicant proposes, inter alia, to transport for Northern natural gas between Emerson, Manitoba, and Carlton, Minn. By letter agreement of December 3, 1971, applicant and Northern have agreed that at any level of contract quantity less than 200,000 Mcf, for each month the charges shall be the sum of the demand charge of $1.825 per Mcf multiplied by the contract quantity and the volume charge of 3 cents per Mcf multiplied by the volume of gas redelivered by applicant to Northern.

As provided by the Commission's order issued January 14, 1972, in Docket No. CP70–69, et al., it is reasonable and consistent with the public interest in this case to provide a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said supplement should on or before January 25, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed protests and petitions to intervene need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–883 Filed 1–18–72;9:43 am]

[Docket No. RP71–102]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Motion for Approval of Settlement Agreement as Amended and Filing of Revised Tariff Sheets

JANUARY 17, 1972.

Take notice that Great Lakes Transmission Co. (Great Lakes), on January 13, 1972, filed a motion for approval of settlement agreement as amended in which it requests approval of the settlement agreement filed on September 8, 1971, in this proceeding as proposed to be amended in the motion. The proposed amendment consists of the addition of a "Canadian Purchased Gas Adjustment Provision" which would allow Great Lakes to reflect in its rates any increases or decreases in its cost of gas resulting from changes in the cost of the Canadian dollar or escalations or decreases in the cost of gas purchased from its sole supplier, Trans-Canada Pipe Lines Ltd. (Trans-Canada).

Great Lakes tendered for filing concurrently with its motion three sets of revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1 implementing the proposed purchased gas adjustment clause. The first set, to supersede those sheets which became effective November 14, 1971, reflect the proposed purchased gas adjustment clause and the settlement cost of service, adjusted in accordance with the provisions of the proposed settlement agreement to reflect the company's actual cost of debt with a prime

interest rate of 6 percent; the second set of tariff sheets reflect a similar adjustment to the settlement cost of service with a prime interest rate of 5.25 percent, to become effective on January 1, 1972, and the third set incorporates the proposed purchased gas adjustment clause in the CO–3, G–3 Rate Schedules, to be effective on February 14, 1972.

Great Lakes states that it proposes the purchased gas adjustment clause for the reason that after the settlement agreement was filed with the Commission Trans-Canada increased its price for the sale of gas to Great Lakes, effective November 1, 1971, and that this increase in Great Lakes' cost of purchased gas was not included in the settlement cost of service. The company states that the purchased gas adjustment clause will provide a permanent mechanism which is fair to both Great Lakes and its customers in that it insures that Great Lakes will be compensated only for increased costs actually incurred and that the customers will not be undercharged or overcharged for changes in the cost of gas purchased from Trans-Canada. Great Lakes says that it would agree to a condition requiring the addition to the proposed purchased gas adjustment clause of a provision for the flow-through of any refunds which might be received from Trans-Canada.

Great Lakes requests that the Commission waive the notice requirements of § 154.22 of the regulations under the Natural Gas Act and such other requirements of its regulations as may be required to permit the proposed tariff sheets to become effective upon approval by the Commission of the amended settlement agreement.

A copy of the filing was served on all customers of Great Lakes as well as all parties to this proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The company's application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–884 Filed 1–18–72;9:44 am]

[Docket No. E–7697]

MINNESOTA POWER & LIGHT CO.

Notice of Application

JANUARY 12, 1972.

Take notice that on December 29, 1971, Minnesota Power & Light Co. (applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of 170,000 shares of its serial preferred stock.

Applicant is incorporated under the laws of the State of Minnesota, with its principal place of business office at Duluth, Minn., and is engaged in the electric utility business within the State of Minnesota.

The preferred stock will be sold at competitive bidding in accordance with the Commission's regulations, will be pari passu with the issued and outstanding preferred stock and will be entitled to dividends at an annual rate to be determined after competitive bidding shall have taken place.

The proceeds from the sale of the preferred stock will be used to reduce an estimated $24 million in short-term borrowings and will finance, in part, the applicant's construction program which is expected to require the expenditure of $48 million in 1972. This program includes $40 million for production facilities and $8 million for transmission, distribution and general plant purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–778 Filed 1–18–72;8:48 am]

[Docket No. RP72–95]

SYLVANIA CORP.

Notice of Application for Increase in Wholesale Rates

JANUARY 12, 1972.

Take notice that on December 20, 1971, the Sylvania Corp. in Docket No. RP72–95 filed an application for an increase in its wholesale rates. The nature of the filing is set forth in the company's transmittal letter as follows:

The sale of gas by Sylvania was certificated at Docket No. CP68–173 by Order issued May 29, 1968. By that same order, Wyckoff Development Co. received authority for sale to Sylvania at Docket No. CI68–1097. The producer rate of 30 cents per Mcf (15.025 p.s.i.a.) was accepted, pending the setting of an area rate for New York State. This was the basis, also, for the Sylvania rate to be charged under present Rate Schedule F–2 to which 2 cents per Mcf was added for gathering of purchased and produced gas and delivery to United Natural Gas Co.

By order issued October 2, 1970, at Docket No. R–371, your Commission established the area rate for New York State of 30.75 cents per Mcf (14.73 p.s.i.a.) and 32 cents per Mcf (15.325 p.s.i.a.). These rates are equivalent to 31.365 cents per Mcf at 15.025 p.s.i.a.

By this filing the increase of 1.365 cents per Mcf in the allowable area rate from 30 cents per Mcf is being added to the rate presently being charged under Rate Schedule F–2. The nominal annual revenue effect of $5,931 to Sylvania is shown by the attached Statement A.

Sylvania has been advised by counsel for Wyckoff Development Co. that they should receive the area rate of 31.365 cents per Mcf commencing October 2, 1970.

Therefore, Sylvania requests waiver of your Commission's rules to permit this change to become effective October 2, 1970.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 24, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The company's application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–779 Filed 1–18–72;8:48 am]

FEDERAL RESERVE SYSTEM

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank

Banks of Iowa, Inc., Cedar Rapids, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Council Bluffs Savings Bank, Council Bluffs, Iowa (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls 3 banks with deposits of approximately $262 million, representing 3.8 percent of the total commercial bank deposits in the State, and

is the second largest banking organization and bank holding company in Iowa.[1] Applicant's acquisition of Bank (deposits of $52 million) would increase applicant's share of deposits in the State by 0.8 percentage points.

Bank operates one office and three branches, and serves the Omaha-Council Bluffs banking market. Bank is the fourth largest of 34 banking organizations serving that market with 4.2 percent of deposits. The three larger banking organizations serving this market are located in Omaha, Nebr., on the western side of the Missouri River which bisects the Omaha-Council Bluffs market, and control approximately 65 percent of the total market deposits. No existing competition would be eliminated as this acquisition represents applicant's initial entry into the market, and the development of any meaningful competition between any of applicant's existing subsidiaries and Bank appears remote in light of the distance involved, the closest subsidiary being 136 miles northeast of Bank's main office, and the State's highly restrictive branching laws. Some potential competition would be foreclosed since applicant could be considered a likely entrant into the market through de novo entry or through the acquisition of a smaller bank, and Bank could be a strong addition to a smaller holding company. However, as a subsidiary of the second largest holding company in Iowa, Bank could readily present the needed competitive force against the larger Omaha-based banks that eventually might result in a desirable deconcentration of this market. The immediate benefits of increasing competition within the market outweigh the potential benefits of applicant's entry through alternate means.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Affiliation with Applicant would increase Bank's lending capabilities through participations with applicant's subsidiaries and special emphasis would be given to expansion of Bank's activities in computer services, trust administration, and investment counseling. Assistance in the area of municipal financing and international banking would also be provided. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application.

Considerations relating to financial and managerial resources and prospects as they relate to applicant, its subsidiaries, and Bank are considered satisfactory and consistent with approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] January 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-743 Filed 1-18-72;8:47 am]

[1] All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through Dec. 15, 1971.

LINCOLN FIRST BANKS, INC.

Order Approving Acquisition of Lincoln First/Baer Corp.

Lincoln First Banks, Inc., Rochester, N.Y., applicant, a bank holding company within the meaning of the Bank Holding Company Act, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire 51 percent of the voting shares of Lincoln First/Baer Corp., New York, N.Y. (Lincoln/Baer), the successor to Baer Credit Corp. (Baer), which is presently 100 percent owned by Baer Holding, A.G., Switzerland. Baer Holding, A.G., will own 49 percent of the voting shares of Lincoln/Baer. Lincoln/Baer has no significance except as a means to restructure the ownership of Baer Credit Corp. Notice of the application affording opportunity for interested persons to submit comments and views was duly published (36 F.R. 22335 and 23273). The time for filing comments and views has expired and all received have been considered.

Making or acquiring loans or other extensions of credit is an activity that the Board has previously determined to be closely related to banking (12 CFR 225.4(a)(1)). A bank holding company may acquire a company engaged in this activity so long as the proposed acquisition is consistent with the relevant factors specified in section 4(c)(8) of the Act. Lincoln/Baer, which will have assets of $6.8 million, will conduct only the activities presently conducted by Baer, a small commercial finance company whose major activity is nonnotification accounts receivable financing. Baer also engages to a limited extent in inventory and equipment financing and in unsecured short-term international financing. These types of commercial financing are specialized, serving high risk customers who generally cannot obtain sufficient bank financing. Lincoln/Baer will not accept demand deposits and will engage solely in the activities described in § 225.4(a)(1) of Regulation Y. Accordingly, the activities to be conducted by Lincoln/Baer are closely related to banking.

Applicant is the fifteenth largest banking organization in New York State, controlling five banks with aggregate deposits of $1.7 billion. Baer, which operates from a single office in New York City, is a small factor in its market (approximated by the Second Federal Reserve District), competing with over 50 commercial finance companies, as well as the commercial finance subsidiaries or departments of six area banks. Applicant's subsidiary banks, while located in the market area, do not offer commercial finance services of the type offered by Baer, and consummation of the proposal would thus have no adverse effects on competition.

Applicant will make a capital contribution to Lincoln/Baer, thus making likely its development as a stronger competitive force than Baer. Additionally, consummation of the proposal will enable applicant to provide additional services to those of its customers who require this specialized type of financing and will perhaps enable Applicant to further develop its services in the international field. There is no evidence in the record that the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved and Applicant is hereby permitted to engage in the activities now conducted by Baer that are authorized by 12 CFR 225.4(a)(1). This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

By order of the Board of Governors,[1] January 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-744 Filed 1-18-72;8:47 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Daane, Maisel, and Brimmer: Absent and not voting: Chairman Burns and Governor Mitchell. Governor Sheehan did not participate in the Board's action on this matter.

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE HUNGARIAN PEOPLE'S REPUBLIC

Entry or Withdrawal From Warehouse for Consumption

JANUARY 13, 1972.

On August 13, 1970, the U.S. Government, in furtherance of the objectives of,

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Hungarian People's Republic concerning exports of cotton textiles and cotton textile products from the Hungarian People's Republic to the United States over a 5-year period beginning on August 1, 1970. Among the provisions of the bilateral agreement were those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 5 and 39 for the second agreement year beginning on August 1, 1971. On December 16, 1971, by an exchange of notes between the Government of the United States and the Government of the Hungarian People's Republic, this bilateral cotton textile agreement was amended to cancel the specific limit on Category 5 for the second agreement year beginning on August 1, 1971, and subsequent agreement years, and to establish in lieu thereof a specific limit on Category 9, to be 1,155,000 square yards for said second agreement year.

There is published below a letter of January 13, 1972, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, canceling his previous directive of July 23, 1971, and directing that the amounts of cotton textile products in Categories 9 and 39 produced or manufactured in the Hungarian People's Republic which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning August 1, 1971, and extending through July 31, 1972, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JANUARY 13, 1972.

DEAR MR. COMMISSIONER: This letter cancels and supersedes the directive of July 23, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee that directed you to prohibit, effective as soon as possible, and for the 12-month period beginning August 1, 1971 and extending through July 31, 1972, and entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 5 and 39 produced or manufactured in the Hungarian People's Republic, in excess of specified levels of restraint.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of August 13, 1970, between the Governments of the United States and the Hungarian People's Republic, as amended by an exchange of notes dated December 16, 1971, and in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning August 1, 1971, and extending through July 31, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9 and 39 produced or manufactured in the Hungarian People's Republic, in excess of the following levels of restraint:

Category		*12-month levels of restraint* [1]
9	square yards	$1,155,000
39	dozen pairs	59,850

[1] These levels have not been adjusted to reflect any entries made on or after August 1, 1971.

Cotton textile products in Category 39 produced or manufactured in the Hungarian People's Republic and which have been exported prior to August 1, 1971, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period of August 1, 1970 through July 31, 1971. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Cotton textile products in Category 9, produced or manufactured in the Hungarian People's Republic and which have been exported to the United States from the Hungarian People's Republic prior to August 1, 1971, shall not be subject to this directive.

Cotton textile products in Category 9, produced or manufactured in the Hungarian People's Republic, which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 13, 1970, as amended, between the Governments of the United States and the Hungarian People's Republic which provide, in part, that within the aggregate limit, the limitations on Categories 9 and 39 may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 9, 1971 (36 F.R. 19722).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Hungarian People's Republic and with respect to imports of cotton textiles and cotton textile products from the Hungarian People's Republic have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.72-782 Filed 1-18-72;8:48 am]

PRICE COMMISSION

PERSONS SUFFERING A PROFIT LOSS DURING THE BASE PERIOD

Criteria for Price Increases

Current regulations of the Price Commission provide, in general, that a person may not increase a price, even if otherwise justified, if that increase would result in an increase in that person's profit margin over that which prevailed during the base period. It is the Commission's intent to prescribe, in the near future, detailed regulations relating to firms operating at a loss or very low profit margin. However, the Commission considers that immediate relief should be allowed any person that suffered a loss during the base period.

Therefore, the Commission will not, pending the publication of detailed regulations on the subject, construe its regulations to—

(1) Prevent any person that had a negative profit margin during the base period (under all possible combinations of the years it uses to compute its base period under Part 300 of the Commission's regulations) from increasing its prices to a level reasonably calculated to provide that person a breakeven profit margin.

(2) Prevent any person that has had a negative profit margin during its most recent fiscal quarter, and reasonably expects that its next three fiscal quarters will also show a negative profit margin unless its prices are increased, from increasing its prices to a level reasonably calculated to provide that person a breakeven profit margin.

Each prenotification firm shall separately report each increase pursuant to this notice to the Price Commission under § 300.51(d) of the Commission's regulations, in a manner prescribed by the Commission.

Issued in Washington, D.C., on January 14, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc.72-831 Filed 1-17-72;10:41 am]

RENEGOTIATION BOARD

EXCESSIVE PROFITS AND REFUNDS

Interest Rate Determination

Notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended by Public

Law 92–41, 92d Cong., approved July 1, 1971, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such Act, to the period beginning on January 1, 1972, and ending on June 30, 1972, is 6¾ per centum per annum.

Dated: January 14, 1972.

RICHARD T. BURRESS,
Chairman.

[FR Doc.72–788 Filed 1–18–72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5056]

COLUMBIA GAS SYSTEM, INC.

Notice of Posteffective Amendment Regarding Proposed Acquisition of Common Stock of Canadian Subsidiary Company Being Formed to Acquire New Gas Supplies

JANUARY 12, 1972.

Notice is hereby given that The Columbia Gas System, Inc. (Columbia), 20 Montchanin Road, Wilmington, DE 19807, a registered holding company, has filed with this Commission a posteffective amendment to its application-declaration in this proceeding pursuant to sections 9, 10, and 12 of the Public Utility Holding Company Act of 1935 (Act) and Rules 41, 43, 44, and 45 promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated September 27, 1971 (Holding Company Act Release No. 17290), the Commission authorized the acquisition by Columbia from Columbia Gas Development of Canada, Ltd. (Development) from time to time during 1971 of 300,000 shares of Development's common stock, par value $25 per share, for $7,500,000 and up to $7,500,000 principal amount of Development's long-term installment promissory notes. Development is being formed under the Federal laws of Canada to acquire additional gas supply for and to coordinate the program of development for the Columbia system in Canada.

Clumbia now proposes that from time to time through March 31, 1972, Development will issue to Columbia and Columbia will acquire from Development for cash up to 600,000 shares of common stock, par value $25 per share, for an aggregate initial capitalization of up to $15 million. It is stated that during the initial period of exploration and development, when the corporation is unlikely to generate earnings, Development should issue no securities which would impose liability for interest.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 2, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as now amended which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should 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 applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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] RONALD F. HUNT,
Secretary.

[FR Doc.72–733 Filed 1–18–72;8:46 am]

[812–3084]

DREXEL FIRESTONE, INC.

Notice of Filing of Application for Exemption

JANUARY 11, 1972.

Notice is hereby given that Drexel Firestone, Inc. (applicant), 1500 Walnut Street, Philadelphia, PA 19102, a registered broker-dealer corporation and a prospective corepresentative with Piper, Jaffray & Hopewood, Inc., of a group of underwriters to be formed in connection with a proposed public offering of shares of capital stock of Mutual of Omaha Interest Shares, Inc. (Company), a registered closed-end investment company, has filed an application, pursuant to section 6(c) of the Investment Company Act of 1940 (Act), for an order exempting Applicant, its corepresentative and their counderwriters from section 30(f) of the Act with respect to their transactions incidental to the distribution of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Section 30(f) of the Act provides, in part, that every person who is directly or indirectly the beneficial owner of more than 10 per centum of any class of outstanding securities of which a registered closed-end company is the issuer, shall, in respect of his transactions in any securities of such company be subject to the same duties and liabilities as those imposed by Section 16 of the Securities Exchange Act of 1934 (Exchange Act) upon certain beneficial owners, directors, and officers in respect of their transactions in certain equity securities.

Section 16(a) of the Exchange Act requires insiders to file reports of their holdings and any changes in their holdings and section 16(b) makes such insiders liable for short-term trading profits.

Shares of the Company are to be purchased by the underwriters, pursuant to an underwriting agreement to be entered into by the underwriters represented by Applicant and its corepresentative and the Company.

In addition to purchases from the Company and sales to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

The participants in the underwriting syndicate and the size of their participation have not yet been determined. It is possible, however, that the underwriting commitments of one or more of the underwriters, including Applicant, will exceed 10 percent of the aggregate number of shares of the Company's capital stock outstanding after the purchase by the several underwriters pursuant to the underwriting agreement or upon the completion of the initial public offering or at some interim time, thereby causing such underwriters to become subject, by reason of section 30(f) of the Act, to the same duties and liabilities as those imposed by section 16 of the Exchange Act. As a result, such underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers and, upon any other purchases and sales in connection with the distribution as indicated below, subject to the liabilities imposed by section 16(b) of the Exchange Act.

It is represented that the purpose of the purchase of the shares by the underwriters will be for resale in connection with the initial distribution of the shares and that therefore the purchases and sales will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b–2 under the Exchange Act which exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) thereof.

However, Rule 16b–2(a)(3) under the Exchange Act requires that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b–2. Since the underwriters who, pursuant to the underwriting agreement, will purchase more than 10 percent of the shares of the Company, may be obligated to purchase more than 50 percent of the shares of the Company being offered, it is possible that one or more of such underwriters, including Applicant and its corepresentative, may therefore, not be exempted by the operation of Rule 16b–2 from the duties and liabilities imposed by section 16(b). Moreover, Rule 16b–2 will not exempt the underwriters subject to section 30(f) from the provisions of section 16(a).

Applicant states that there is no "inside information" in existence with respect to the Company since the Company, prior to the initial distribution of the shares, will have no assets (other than cash) or business of any sort, and all material information will be set forth in the prospectus incorporated in the registration statement.

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot be used for the offending practices which section 16 of the Exchange Act is intended to prevent.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than January 26, 1972, 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 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 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] RONALD F. HUNT,
Secretary.

[FR Doc.72–734 Filed 1–18–72;8:46 am]

TARIFF COMMISSION

[337–L–47]

WRITING INSTRUMENTS INCORPORATING POROUS WRITING NIB

Extension of Time for Filing Written Views

On December 10, 1971, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by the Venus Esterbrook Corp., New York, N.Y., alleging unfair methods of competition and unfair acts in the importation and sale of certain writing instruments incorporating a porous writing nib (36 F.R. 23596). Interested parties were given until January 17, 1972, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business February 22, 1972.

Issued: January 14, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72–807 Filed 1–18–72;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

JANUARY 14, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 129844, Whitehurst Paving Co., Inc., now assigned February 10, 1972, at Washington, D.C., postponed to April 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134163 Sub 4, Joseph Richardson, assigned February 9, 1972, at Philadelphia, Pa., is postponed to February 16, 1972, in the U.S. Customs Courtroom, Third Floor, U.S. Customshouse, Second and Chestnut Streets, Philadelphia, Pa.

MC 112822 Sub 199, Bray Lines, Inc., assigned February 7, 1972, MC 112822 Sub 205, Bray Lines, Inc., assigned February 14, 1972, MC 112822 Sub 211, Bray Lines, Inc., assigned February 8, 1972, MC 115841 Sub 404, Colonial Refrigerated Transportation, Inc., assigned February 16, 1972, MC 123392 Sub 31, Jack B. Kelley, Inc., assigned February 10, 1972, at Dallas, Tex., will be held in Room 5A15, 1100 Commerce Street.

MC 134163 Sub 3, Joseph Richardson, assigned February 7, 1972, at Philadelphia, Pa., postponed to February 14, 1972, in the U.S. Customs Courtroom, Third Floor, U.S. Customshouse, Second and Chestnut Streets, Philadelphia, Pa.

MC 119395 (Sub-No. 2), Williams Chemical Transport, MC 135109, Seco, Inc., now assigned January 17, 1972, at Washington, D.C., are postponed to February 1, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC–FC–72913, Russell Transportation, Inc. Transferee and W. V. Williams, doing business as Williams Transport, Transferor, assigned for hearing February 25, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 123407 Sub 89, Sawyer Transport, Inc., assigned for hearing February 23, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC–F 11160 MC 3005 Sub 10, Chicago Kansas City Freight Line, Inc.—Purchase—Pride Motors, Inc., assigned January 31, 1972, at Chicago, Ill., is postponed indefinitely.

MC 119531 Sub 152, Dieckbrader Express, Inc., assigned February 18, 1972, at Chicago, Ill., is postponed indefinitely.

MC 135967, Flaggways, Inc., now being assigned hearing February 18, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 121533 Sub 6, Western Hauling, now assigned February 7, 1972, at Olympia, Wash., postponed to March 6, 1972, at Seattle, Wash., in a hearing room to be designated later.

MC 72442 Sub 32, Akers Motor Lines, Inc., assigned January 31, 1972, is canceled and transferred to Modified Procedure.

MC 14624 Sub 1, Cecil O'Nan doing business as Tri-State Express, assigned February 2, 1972, will be held on the Fourth floor, West End State Office Building, Clinton and High Streets, Frankfort, Ky.

MC 25798 Sub 225, Clay Hyder Trucking Lines, Inc., assigned February 29, 1972, MC 103993 Sub 629, Morgan Drive-Away, Inc., assigned February 28, 1972, MC 113382 Sub 14, Nelsen Bros., Inc., assigned February 25, 1972, MC 123639 Sub 135, J. B. Montgomery, Inc., MC 124211 Subs 181 and 185, Hilt Truck Line, Inc., Sub 181 assigned February 22, 1972, and Sub 185, assigned February 24, 1972, at Omaha, Nebr., will be held in Room 812, Federal Office Building, 106 South 15th Street.

MC 95876 Sub 117, Anderson Trucking Service, Inc., assigned February 14, 1972, MC 107496 Sub 183, Ruan Transport Corp. MC 108119 Sub 35, E. L. Murphy Trucking Co., assigned February 14, 1972, MC 117799 Sub 16, Best Way Frozen Express, Inc., assigned February 7, 1972, MC 126196 Sub 6, Christensen Truck Line, assigned February 10,

1972, MC 134533 Sub 1, assigned February 16, 1972, will be held in Courtroom No. 4, Federal Building, 316 Robert Street, St. Paul, MN.

MC 113678 Sub 422, Curtis, Inc., now assigned January 24, 1972, at Chicago, Ill., canceled and application dismissed.

MC-F 11127, The Aetna Freight Lines, Inc.—Purchase portion—Adkins Transfer, Inc., assigned February 10, 1972, MC 105566 Sub 58, Sam Tanksley Trucking, Inc., assigned February 7, 1972, MC 107295 Sub 516, Pre-Fab Transit Co., Assigned February 9, 1972, MC 112184 Sub 33, The Manfredi Motor Transportation Co., assigned February 14, 1972, MC 116101 Sub 9, assigned February 8, 1972, at Columbus, Ohio, will be held in Room 255 Federal Building, 85 Marconi Boulevard.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-790 Filed 1-18-72;8:49 am]

BALTIMORE AND OHIO RAILROAD CO.

[ICC Order No. 64; Rev. S. O. No. 994]

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, The Baltimore and Ohio Railroad is unable to transport certain carload traffic loaded to widths in excess of 11 feet 6 inches or to heights in excess of 16 feet 6 inches above top of rail and routed over its line between Parkersburg, W. Va., and Belpre, Ohio, because of restricted clearances.

It is ordered, That:

(a) *Rerouting traffic.* The Baltimore and Ohio Railroad Co., being unable to transport certain traffic loaded to widths in excess of 11 feet 6 inches or to heights in excess of 16 feet 6 inches above top of rail and routed over its line between Parkersburg, W. Va., and Belpre, Ohio, because of restricted clearances, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Baltimore and Ohio Railroad Co., in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Baltimore and Ohio Railroad Co., when rerouting cars in accordance with this order, shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 2 p.m., January 13, 1972.

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 13, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-799 Filed 1-18-72;8:50 am]

[Notice 2]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 14, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 604), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed January 3, 1972. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Greensboro, N.C., over Interstate Highway 85 to junction Interstate Highway 95 at Petersburg, Va., thence over Interstate Highway 95 to Richmond, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Greensboro, N.C., over U.S. Highway 29 to junction U.S. Highway 360, thence over U.S. Highway 360 to Richmond, Va., and return over the same route.

No. MC-107109 (Deviation No. 16), INDIANAPOLIS AND SOUTHEASTERN TRAILWAYS, INC., 205 North Senate Avenue, Indianapolis, IN 46202, filed January 6, 1972. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Indiana Highway 25 and Interstate Highway 65 over Interstate Highway 65 to junction U.S. Highway 52 north of Lebanon, Ind., with the following access routes: (a) From junction Interstate 65 and Indiana Highway 38, over Indiana Highway 38 to Lafayette, Ind., and (b) from junction Interstate Highway 65 and Indiana Highway 26 over Indiana Highway 26 to Lafayette, Ind., and (2) from junction Interstate Highways 65 and 465 located in Boone County, Ind., over Interstate Highway 465 on the north and east side of the metropolitan area of Indianapolis, Ind. (but not wholly within Marion County, Ind.), to junction Indiana Highway 74 on the southeast side of Indianapolis, Ind.; also from junction Interstate Highway 465 with the north and south leg of Interstate Highway 465 located in Boone County, Ind., over Interstate Highway 465 (north and south leg) to junction Interstate Highway 65 on the northwest side of Indianapolis, Ind., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Hammond, Ind., over U.S. Highway 12 to junction Indiana Highway 55, thence over Indiana Highway 55 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Indiana Highway 130, thence over Indiana Highway 130 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 421, thence over U.S. Highway 421 to junction Indiana Highway 43, thence over Indiana Highway 43 to Lafayette, Ind., thence over U.S. Highway 52 to Indianapolis, Ind., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-794 Filed 1-18-72;8:49 am]

[Notice 2]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 14, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–41432 (Deviation No. 15), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207, filed December 29, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock, Ark., over Interstate Highway 40 to Oklahoma City, Okla., thence over U.S. Highway 66 to Barstow, Calif., thence over Interstate Highway 15 to San Bernardino, Calif., thence over Interstate Highway 10 to Los Angeles, Calif., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Little Rock, Ark., over U.S. Highway 70 to Benton, Ark., thence over U.S. Highway 67 to Texarkana, Ark., thence over U.S. Highway 59 to Marshall, Tex., thence over U.S. Highway 80 to Las Cruces, N. Mex., thence over U.S. Highway 70 to Los Angeles, Calif., and return over the same route.

No. MC–57591 (Sub-No. 4) (Deviation No. 1), EVANS DELIVERY COMPANY, INC., Route 3, Box 268, Pottsville, PA 17901, filed January 6, 1972. Carrier's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pottsville, Pa., over Pennsylvania Highway 61 to junction U.S. Highway 22, thence over U.S. Highway 22 to Easton, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Pottsville, Pa., over U.S. Highway 209 to Lehighton, Pa., thence over Pennsylvania Highway 248 (portions formerly Pennsylvania Highway 29 and 45) via Nazareth and Wilson, Pa., to Easton, Pa., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–793 Filed 1–18–72;8:49 am]

[Notice 3]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 14, 1972.

The following publications are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 118959 (Sub-No. 85) (Republication), filed March 23, 1970, published in the FEDERAL REGISTER issue of April 16, 1970, and republished this issue. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, MO 63701. An order of the Commission, Division 1, acting as an Appellate Division, dated November 24, 1971, and served January 5, 1972, upon consideration of the record in this proceeding, including the decision and order of the Commission, Review Board No. 2, dated August 17, 1971, and served August 27, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes; (1) of building materials and supplies (except commodities in bulk) from the plantsite of Tech-Panel Corp. at or near Springfield, Ky., to points in the United States (except Alaska and Hawaii); and (2) of hardboard, from New Orleans, La., and Wilmington, N.C., to the plantsite of Tech-Panel Corp. at or near Springfield, Ky., restricted to the transportation of shipments which have had a prior movement by water. That the application in No. MC–118959 (Sub-No. 85), as published in the FEDERAL REGISTER of April 16, 1970, stated that the requested authority could not be tacked with applicant's existing authority; that in No. MC–118959 (Sub-No. 85) the FEDERAL REGISTER notice of April 16, 1970, in this matter was incorrect in that the authority as granted in this proceeding can in fact be tacked with applicant's existing authority, so as to permit a through service by applicant, from, to, or between, points not included in the application; that because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice that the authority granted in this proceeding can be tacked with applicant's outstanding authority, a notice of the authority actually granted in No. MC–118959 (Sub-No. 85), will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period of 30 days from the date of such publication, during which period any person with a proper interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which he has been so prejudiced.

No. MC 135208 (Sub-No. 2) (Republication), filed February 16, 1971, published in the FEDERAL REGISTER issue of March 18, 1971, and republished this issue. Applicant: GEORGE L. BIGELOW, Post Office Box 421, Delavan, WI 53115. Applicant's representative: Nancy J. Johnson, 111 South Fairchild Street, Madison, WI 53703. A report and order of the Commission, Review Board No. 1, decided December 15, 1971, and served January 12, 1972, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of laminated wood products, from Fort Atkinson, Wis., to points in the United States (except Alaska and Hawaii), and of materials and supplies used in the production thereof (except commodities in bulk), from points in the United States (except Alaska and Hawaii) to Fort Atkinson, Wis. Because this is a somewhat broader grant of authority than that sought, and because other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 127355 (Notice of Filing of Petition To Modify Permit by Adding New Shipper and Deleting an Existing Shipper), filed December 27, 1971. Petitioner: M & N GRAIN COMPANY, a corporation, Nevada, Mo. Petitioner

states it is authorized to operate in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, transporting (1) fish meal, from Houston and Port Arthur, Tex., Dulac and Morgan City, La., and Moss Point, Gulfport, and Pascagoula, Miss., to points in Iowa, Minnesota, and Nebraska, and to Lynn Center, Monmouth, and Morrison, Ill., Egan, S. Dak., and Fond du Lac and Madison, Wis.; and (2) cottonseed meal from points in Arkansas and Mississippi, and from Portageville, Mo., and Memphis, Tenn., to the destination points described in (1) above, under a continuing contract with Sargent Grain Co., of Des Moines, Iowa. By the instant petition, petitioner seeks modification of its permit by adding the name of a new shipper, The Pillsbury Co. of Minneapolis, Minn., and by deleting the existing shipper, Sargent Grain Co. of Des Moines, Iowa. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133928 (Sub-No. 3) (Notice of Filing of Petition To Add Additional Contracting Shipper), filed December 5, 1971. Petitioner: ANTHONY H. OSTERKAMP, JR., doing business as OSTERKAMP TRUCKING, Orange, Calif. Petitioner's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Petitioner holds a permit in No. MC 133928 (Sub-No. 3) authorizing operation as a motor contract carrier, over irregular routes, transporting: Agricultural field equipment, and harvesting equipment, parts of agricultural field equipment and harvesting equipment, and materials and supplies used in the harvesting and distribution of agricultural commodities, between points in California on the one hand, and, on the other, points in Arizona, limited to a transportation service to be performed under a continuing contract or contracts, with Bud Antle, Inc., of Salinas, Calif. By the instant petition, petitioner seeks to add the name of Interharvest, Inc., as an additional contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 1385 (Sub-No. 4), filed December 21, 1971. Applicant: GARTON'S EXPRESS, INC., 116 Almond Street, Vineland, NJ 08360. Applicant's representative: Francis W. McInerny, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between Bridgeton and Vineland, N.J., on the one hand, and, on the other, points in New Jersey (except those within 30 miles of Elizabeth, N.J.). NOTE: Applicant states that tacking will be made at Bridgeton and Vineland N.J., to serve points in eastern Pennsylvania, including Philadelphia. The instant application is a matter directly related to MC–F–11336, published in the FEDERAL REGISTER issue of October 14, 1971. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 41706 (Sub-No. 14) (Correction), filed December 8, 1971, published in the FEDERAL REGISTER issue of January 12, 1972, under MC 133562 (Sub-No. 9), corrected and republished as corrected, this issue. Applicant: TOSE, INC., 64 West Fourth Street, Bridgeport, PA 19405. Applicant's representative: Anthony C. Vance, Suite 501, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Massachusetts. NOTE: Applicant states that tacking could take place at common points of Boston and Springfield, Mass., permitting through service to and from all points in Massachusetts. This is a matter directly related to MC–F–11398, published in the FEDERAL REGISTER issue of December 15, 1971. Common control may be involved. The purpose of this republication is to reflect the correct docket number as MC 41706 (Sub-No. 14) in lieu of MC 133562 (Sub-No. 9) shown erroneously in previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11150. (Amendment) (THE MASON AND DIXON LINES, INC.—Purchase (Portion)—A–OK MOTOR LINES, INC.), (SAMUEL KAUFMAN-Trustee in Bankruptcy), published in the April 28, 1971, issue of the FEDERAL REGISTER on page 8015. MARGAREG K. NORRIS, E. WILLIAM KING, and JOHN R. KING, join in the application as party applicants. Hearing to be held January 18, 1972, at Birmingham Airport Motel, Birmingham, Ala.

No. MC–F–11277. (Supplement) (W.T.C. AIR FREIGHT, INC.—Purchase—GERALD W. BROWNSTEIN, doing business as DIRECT AIR FREIGHT CORPORATION), published in the September 1, 1971, issue of the FEDERAL REGISTER on page 17541. Approved by order of Review Board No. 5, on November 16, 1971. Conditioned upon joinder by WESTERN TRUCK LEASING COMPANY AND R. B. MEYERS as party applicants. Petition filed December 23, 1971, by said individuals to be joined in the application.

No. MC–F–11392. (Correction) (SPIEGEL TRUCKING, INC.—Control—TRANSPET, INC.), published in the December 15, 1971, issue of the FEDERAL REGISTER on page 23846, should have read, ISADORE SPIEGEL—Control—TRANSPET, INC.

No. MC–F–11397. (Correction) (SEAVER'S EXPRESS, INC.—Purchase—ATHOL MOTOR TRANSPORTATION, INC.), published in the December 15, 1971, issue of the FEDERAL REGISTER on page 23847. Prior notice should be modified to show transfer of authority over regular and irregular routes within the State of Massachusetts.

No. MC–F–11426. Authority sought for purchase by CARL W. REAGAN, doing busineess as SOUTHEAST TRUCKING CO., 8372 State Route 18 East, R.F.D. No. 6, Ravenna, OH 44266, of a portion of the operating rights and property of PALMER BROS., INC., 4910 Akron-Cleveland Road, Peninsula, OH 44264. Applicants' attorneys: Robert N. Krier and Joe F. Asher, both of 88 East Broad Street, Columbus, OH 43215. Operating rights sought to be transferred: *Concrete pipe, concrete cribbing, and concrete slabs*, as a *contract carrier*, over irregular routes, from Cleveland, Ohio, to Bridgeville, Pa.; *concrete pipe forms and prestressed concrete bridge side forms*, between Bridgeville, Pa., and Cleveland, Ohio; *concrete pipe, concrete cribbing, concrete slabs, concrete pipe forms, and prestressed concrete bridge side forms*, between Columbus, Ohio, and Bridgeville, Pa., with restriction; *concrete pipe, concrete slabs, and concrete cribbing*, from the site of the Reliance Universal, Inc., Concrete Products Division, Bridgeville Plant, in Collier Township, Allegheny County, Pa., to certain specified points in West Virginia and Ohio. Vendee is authorized to operate as a *contract carrier* in Ohio, Delaware, Michigan, Maryland, New Jersey, New York, Pennsylvania, West Virginia, Indiana, Illinois, Kentucky, Minnesota, Iowa, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11427. Authority sought for merger by RIO GRANDE MOTOR WAY, INC., 1400 West 52d Avenue, Denver, CO 80221, of the operating rights and property of ZIP, INC., 230 West Seventh South Street, Salt Lake City, UT 84101, and for acquisition by THE DENVER AND RIO GRAND WESTERN RAILROAD COMPANY, 1531 Stout Street, Denver, CO 80217, of control of such

rights and property through the transaction. Applicants' attorney: Warren D. Braucher, 450 Lincoln Street, Denver, CO 80203. Operating rights sought to be merged: *General commodities*, except those of unusual value, classes A and B explosives, commodities requiring the use of special equipment, and road oil, asphalt, fuel oil, and chemicals, in bulk, in tank vehicles, as a *common carrier*, over regular routes, between Linwood, Utah, and Rock Springs, Wyo., serving the intermediate point of Green River, Wyo., and points within 15 miles of certain specified highways, and points in Daggett County, Utah, as off-route points, between Linwood, and Salt Lake City, Utah, serving the intermediate point of Ogden, Utah, and points in Daggett County, Utah, as off-route points, between Green River, and Urie, Wyo., serving no intermediate points and serving the termini for the purpose of joinder only, with restriction. RIO GRANDE MOTOR WAY, INC., is authorized to operate as a *common carrier* in Colorado, New Mexico, and Utah. Application has not been filed for temporary authority under section 210a(b). NOTE: Pursuant to order dated December 30, 1969, and served January 7, 1970, in Docket No. MC-F-10244, transferee acquired control of transferor.

No. MC-F-11428. Authority sought for purchase by GRAVES TRUCK LINE, INC., 739 North 10th Street, Salina, KS, of a portion of the operating rights and property of THE TOPEKA TRANSFER & STORAGE COMPANY, 528 Adams Street, Topeka, KS, and for acquisition by WILLIAM H. GRAVES AND JOHN A. GRAVES both of Salina, Kans., LOWELL P. GRAVES, 92 Shawnee Avenue, Kansas City, KS, and DWIGHT L. GRAVES, 3402 West Harry, Wichita, KS, of control of such rights and property through the purchase. Applicants' attorneys: John E. Jandera, 641 Harrison Street, Topeka, KS 66603, and Erle W. Francis, Suite 719 Capitol Federal Building, 700 Kansas Avenue, Topeka, KS 66603. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, from Topeka, Kans., to points in Kansas and Nebraska within 100 miles of Topeka, including Topeka, with restriction. Vendee is authorized to operate as a *common carrier* in Kansas, Iowa, Missouri, Colorado, Nebraska, Oklahoma, Texas, New Mexico, Wyoming, Arkansas, Louisiana, North Dakota, and South Dakota. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11429. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: GOLDEN WEST FREIGHT LINES, 1300 Roberts Lane, Post Office Box 5817, Bakersfield, CA 93308 (MC-88310), and O.N.C. MOTOR FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303 (MC-71459), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between certain specified points in California. Attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. GOLDEN WEST FREIGHT LINES, is authorized to operate as a common carrier in California.

No. MC-F-11430. Authority sought for purchase by BUDIG TRUCKING CO., 1100 Gest Street, Cincinnati, OH 45302, of the operating rights and property of GERMANN BROS. MOTOR TRANSPORTATION, INC., Aberdeen, Ohio 45101, and for acquisition by OTTO M. BUDIG, OTTO M. BUDIG, JR., AND GEORGE J. BUDIG, all of 1100 Gest Street, Cincinnati, OH 45302, of control of such rights and property through the purchase. Applicants' attorney: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH 45202. Operating rights sought to be transferred: *General commodities*, except dangerous explosives, as a *common carrier* over regular routes, between Cincinnati, Ohio, and Flemingsburg, Ky., serving all intermediate points, and certain specified off-route points of Kentucky and those in Ohio and Kentucky within 5 miles of Cincinnati and Ripley, Ohio, and Maysville, Ky.; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, between Mount Olivet, and Cynthiana, Ky., serving all intermediate points, but restricted against the handling of traffic originating at or beyond Cincinnati, Ohio, and destined to Cynthiana, Ky., or originating at Cynthiana, Ky., and destined to or beyond Cincinnati, Ohio, between Mount Olivet, and Maysville, Ky., serving all intermediate points, between Lexington, and Washington, Ky., serving Paris, Ky., as an intermediate point for joinder purposes only, with restriction, between Cynthiana, and Paris, Ky., serving no intermediate points, and serving Paris for joinder purposes only; *unmanufactured tobacco, and household goods* as defined by the Commission over irregular routes, between Maysville, Ky., and points in Ohio and Kentucky within 10 miles of Maysville, and points in Brown County, Ohio, on the one hand, and, on the other, points in Ohio, Kentucky, and West Virginia; *brick, sand, gravel, and cement*, in bulk, in truckloads, from Maysville, Ky., and points in Kentucky within 10 miles of Maysville to points in Ohio on and south of U.S. Highway 40. Vendee is authorized to operate as a *common carrier* in Ohio, Kentucky, and Indiana. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11431. Authority sought for merger by EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, Pa. 15201, of the operating rights and property of DANIELS MOTOR FREIGHT, INC., also of Pittsburgh, Pa. 15201, and for acquisition by THOMAS A. EAZOR, of Pittsburgh, Pa. 15201, of control of such rights and property through the transaction. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be merged: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between St. Louis, Mo., and New York, N.Y., between Harrisburg, Pa., and junction U.S. Highways 1 and 2, between Springfield, Ohio, and junction U.S. Highway 36 and Interstate Highway 71, between junction U.S. Highway 422 and 19 and Warrendale Interchange, Pennsylvania Turnpike, between Duncansville, Pa., and Baltimore, Md., between Harrisburg, Pa., and Baltimore, Md., between Breezewood, Pa., and junction U.S. Highways 30 and 230, between Indianapolis, Ind., and Saginaw, Mich., between Toledo, Ohio, and Flint, Mich., between Chicago, Ill., and junction U.S. Highway 30N and Interstate Highway 71, between Chicago, Ill., and Albany, N.Y., between Chicago, Ill., and junction U.S. Highways 6 and 20, between Westfield and Syracuse, N.Y., between junction New York Highways 5 and 365 and Utica, N.Y., between junction New York Highways 5 and 63 and junction U.S. Highway 15 and New York Highway 17, between Buffalo and East Avon, N.Y., between Cleveland and Youngstown, Ohio, between Ashtabula, Ohio, and junction U.S. Highways 62 and 224, between Broadview Heights and Conneaut, Ohio, between Warren and Niles, Ohio, between Warren and Cleveland, Ohio, with restrictions;

General commodities, excepting among others, classes A and B explosives, household goods and commodities in bulk over irregular routes, between Wilmington, Del., on the one hand, and, on the other, certain specified points in Pennsylvania, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., West Chester, Pa., and points in that part of Delaware County, Pa., on and east of U.S. Highway 13, between Newark, Del., to Pennsylvania and Maryland within 27 miles of Newark, Del., not including Chester, Pa., between points in the Washington, D.C., commercial zone, as defined by the Commission, in 3 M.C.C. 243, over one alternate route for operating convenience only; *general commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between the plantsites of the Bethlehem Steel Co. located in that part of Johnstown, Pa., and the commercial zone thereof, on and west of U.S. Highway 219, on the one hand, and, on the other, St. Louis, Mo., points in Ohio, Indiana, Michigan, Illinois, and those points in West Virginia within 75 miles of Youngstown, Ohio; *paper*, from Newark, Del., to Philadelphia, Lancaster, and Harrisburg, Pa.; *iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., to points in Michigan; *materials, equipment, and supplies* used in the

manufacture and processing of iron and steel articles, from points in Michigan, to the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., with restriction. EAZOR EXPRESS, INC., is authorized to operate as a common carrier in Pennsylvania, New York, New Jersey, Ohio, Illinois, Connecticut, Massachusetts, Rhode Island, West Virginia, Indiana, and Wisconsin. Application has not been filed for temporary authority under section 210a(b). NOTE: Pursuant to orders dated October 17, 1969, and supplemented by order of April 16, 1970, in No. MC-F-9909, transferee acquired control of transferor.

No. MC-F-11432. Authority sought for purchase by K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034, of a portion of the operating rights and property of MAY TRUCKING COMPANY, Post Office Box 398, Payette, ID 83661, and for acquisition by JAMES E. BERREY, MARY JEAN BERREY, and STEPHEN BERREY, all of 18690 South Nixon Avenue, West Linn, OR 97068, of control of such rights and property through the purchase. Applicants' attorney: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Operating rights sought to be transferred: *Cement*, as a *common carrier*, over irregular routes, from Lime, Oreg., to certain specified points in Idaho; *cement and cement products*, in containers or in bulk, from Lime, Oreg., to points in Nevada on and north of U.S. Highway 40 (except points in Washoe County, Nev.). Vendee is authorized to operate as a *common carrier* in Oregon, Washington, Idaho, California, Utah, and Nevada. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11433. Authority sought for purchase by FUNK'S HAULING SERVICE, INC., 2750 Grant Avenue, Philadelphia, PA 19114, of a portion of the operating rights of A.E.F. TRANSPORTATION, INC., 650 Eddystone Avenue, Eddystone, PA 19013, and for acquisition by CLINTON C. FUNK, JR., CAROL ANN PAGNOTIO, JUANITA RUTH KEHL, and ANNA DEBORAH CICCHINI, all of 2750 Grant Avenue, Philadelphia, PA 19114, of control of such rights through the purchase. Applicants' attorney: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, livestock, live fish, and poultry, new furniture, motion picture films, silk, household goods as defined by the Commission, and those commodities requiring the use of tank-truck equipment for their transportation, as a *common carrier* over regular routes, between Trenton, N.J., and New York, N.Y., serving the intermediate points of Jersey City, Newark, Elizabeth, and New Brunswick, N.J., and the off-route points of Yonkers, New Rochelle, Garden City, and Freeport, N.Y., Edgewater, Hoboken, Hackensack, Paterson, Passaic, West Orange, South Orange, East Orange, Orange, Bayonne, Kearny, and Perth Amboy, N.J.; *containers and materials, supplies, and equipment* used in the manufacture of containers, serving the plantsite of Greif Bros. Co. Corp., at Spotswood, N.J., as an off-route point, in connection with carrier's presently authorized regular route operations. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Delaware, and Maryland. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11434. Authority sought for purchase by WHITE'S DELIVERY SERVICE, INC., 155 North Front Street, Philadelphia, PA 19106, of a portion of the operating rights of A.E.F. TRANSPORTATION, INC., 650 Eddystone Avenue, Eddystone, PA 19013, and for acquisition by ROBERT G. LEWIS, SR., also of Philadelphia, Pa. 19106, of control of such rights through the purchase. Applicants' attorney: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, livestock, live fish, and poultry, new furniture, motion picture films, silk, household goods as defined by the Commission, and those commodities requiring the use of tank-truck equipment for their transportation, as a *common carrier* over regular routes, between Philadelphia, Pa., and Trenton, N.J., serving the intermediate point of Camden, N.J., and the off-route point of Bristol, Pa. Vendee is authorized to operate as a *contract carrier* in New Jersey and New York. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-133568 Sub 2, is a matter directly related.

No. MC-F-11435. Authority sought for purchase by ROY W. NICHOLS, doing business as QUALITY MOVERS, 601 North Fourth Street, Jeannette, PA 15644, of the operating rights of ANDY JONES, 146 Alameda Road, Butler, PA 16001, and for acquisition by ROY W. NICHOLS, of Jeannette, Pa. 15644, of control of such rights through the purchase. Applicants' attorney: Stephen T. Wardzinski, 2310 Grant Building, Pittsburgh, Pa. 15219. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Butler County, Pa., on the one hand, and, on the other, points in New York, Ohio, Maryland, West Virginia, New Jersey, Michigan, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Delaware, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-795 Filed 1-18-72;8:49 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 14, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 53060, filed December 17, 1971. Applicant: KERN VALLEY TRUCKING, 3901 Medford Street, Los Angeles, CA 90063. Applicant's representative: R. Y. SCHUREMAN, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between all points and places on and along the following routes: (1) U.S. Highway 99, including points within 10 miles laterally therefrom, between the Los Angeles Territory, as described in Appendix B attached hereto, and Wheeler Ridge, inclusive (see exceptions 1 and 2 below); (2) U.S. Highway 99, including points within 25 miles laterally therefrom, between Wheeler Ridge and Fresno, inclusive, including points within a 10-mile radius of the following: (a) The junction of U.S. Highway 99 and State Highway 180 within the city of Fresno; (b) the junction of State Highways 198 and 41 near Lemoore; (c) the junction of State Highway 180 and unnumbered highway known as Valley Road near Squaw Valley; (3) U.S. Highways 99, 99W, and 99E between Fresno and Dunnigan and Lincoln, inclusive, including points and places within a 20-mile radius of the corporate limits of the city of Sacramento (see Exception 2 below), and including the off-route points Escalon, Riverbank, and Oakdale; (4) U.S. Highway 50 between Stockton and Tracy, inclusive; (5) State Highway 33 between junction with U.S. Highway 50 near Tracy and Maricopa, including the off-route points of Huron, Kettleman City, and Ford City; (6) U.S. Highway 6, including points within 10 miles laterally therefrom, between its junction with U.S. Highway 99 near San Fernando and a point 5 miles north of Lancaster, inclusive, including the off-route points of Quartz Hill, Pearblossom, and Rosamond (see Exception 1 below);

(7) Through routes and rates may be established between any and all points

specified in subparagraphs 1 through 6 above; and (8) for operating convenience only, applicant is authorized to traverse U.S. Highway 6 between a point thereon 5 miles north of Lancaster and Mojave and U.S. Highway 466 between Mojave and a point thereon 25 miles east of U.S. Highway 99, serving no points or places on or laterally from U.S. Highways 6 and 466. Exceptions: (1) Applicant is not authorized to serve Newhall, Saugus, and Castaic or the off-route point of Rosamond except in conjunction with split delivery shipments; and (2) applicant is not authorized to provide local service between points (a) within the Los Angeles Basin Territory; (b) within a 20-mile radius of the corporate limits of the city of Sacramento. Applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4–B; (2) automobiles, trucks, and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; (5) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (6) commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) commodities when transported in motor vehicles equipped for mechanical mixing in transit; and (8) logs.

Appendix B: Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U.S. Highway No. 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue to its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway No. 99 to and including the city of Redlands; westerly along U.S. Highway No. 99 to U.S. Highway No. 395; southerly along U.S. Highway No. 395 to State Highway No. 18; southwesterly along State Highway 18 to U.S. Highway 91; westerly along U.S. Highway No. 91 to State Highway No. 55; southerly along State Highway No. 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U.S. Highway No. 101 Alternate; thence northerly along an imaginary line to point of beginning. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

State Docket No. 53065, filed December 20, 1971. Applicant: UNITED TRUCK LINE, 675 Arthur Avenue, San Francisco, CA 94124. Applicant's representative: Michael J. Stecher, 140 Montgomery Street, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* (A) Between San Francisco and South San Francisco, on the one hand, and points and places located on, or within 5 miles laterally of, the following routes: (1) U.S. Highways 101 and 101 By-Pass between San Francisco and San Jose, State Highway 17 between San Jose and Los Gatos and all connecting roads between said highways; (2) U.S. Highways 40, 50 and State Highways 9 and 17, along the eastern shore of San Francisco Bay, from Richmond, on the north, to San Jose on the south; (3) U.S. Highway 101 between San Francisco and Santa Rosa, State Highway 37 from Ignacio to Sheelville and State Highway 12 from Sheelville to Sebastopol: (B) Between all points within a radius of 25 miles of Sacramento: (C) Between all points on and within 15 miles laterally of the following highways; (1) U.S. Highway 40 between San Francisco and Sacramento, inclusive; (2) U.S. Highway 50 between San Francisco and Sacramento, inclusive; (3) State Highway 24 between Oakland and Sacramento, inclusive; (4) State Highway 4 between Stockton and Junction U.S. Highway 40, inclusive; (5) State Highway 12 between Lodi and Junction U.S. Highway 40, inclusive; (6) U.S. Highway 99 between Sacramento and Turlock, inclusive; (7) State Highway 120 between Manteca and Oakdale, inclusive; (D) Between all points on and within 25 miles laterally of the following highways: (1) U.S. Highway 99, 99E, and Interstate Highway 5 between Sacramento and Redding; (2) U.S. Highway 99, State Highway 140, and Interstate Highway 5 between Turlock and Bakersfield; (3) U.S. Highway 101 between San Jose and Salinas; (4) State Highways 17 and 1 between San Jose and Carmel; (5) Interstate Highway 80, State Highways 65 and 20 between Sacramento and Grass Valley;

(6) U.S. Highway 50 between Sacramento and Placerville and (7) Interstate Highway 80 between Sacramento and Auburn. Service between said points shall be subject to the following conditions and limitations: (1) Service to points within any one of the three areas may be made via any available street or highway within said area. Service between San Francisco and South San Francisco, on the one hand, and points in area B (East-Bay), on the other, may be made via U.S. Highway 40 (San Francisco-Oakland Bay Bridge) or via U.S. Highway 101 and any of the bridges across San Francisco Bay; (2) Applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A; (2) Automobiles, trucks, and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; (5) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (6) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit, and (8) Logs. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-792 Filed 1-18-72;8:49 am]

[Notice 8]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 13, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate

Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107496 (Sub-No. 834 TA), filed January 6, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphate of alumina*, liquid, in bulk, in tank vehicles, from American Cyanamid Co. facilities at Cloquet, Minn., to the city of Grand Forks Water Department, Grand Forks, N. Dak., for 150 days. Supporting shipper: American Cyanamid Co., Industrial Chemicals and Plastics Division, Wayne, N.J. 07470. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 108449 (Sub-No. 336 TA), filed January 6, 1972. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Mylenbeck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, in tank vehicles, from points in Washington County, Minn., to Fargo, N. Dak., for 180 days. Supporting shipper: Twin City Silica, Lake Elmo, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 111170 (Sub-No. 179 TA), filed January 6, 1972. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compound*, in bulk, from Jacksonville, Ark., to Alliance, Ohio, for 180 days. Supporting shipper: Transvaal, Inc., Post Office Box 69, Jacksonville, AR 72076. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 127197 (Sub-No. 5 TA), filed January 5, 1972. Applicant: JAMES E. WILSON, Rural Delivery No. 2, Coudersport, PA 16915. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Albany, N.Y., to points in New York on and west of Route 15, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: Paul J. Denworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 133161 (Sub-No. 7 TA), filed January 5, 1972. Applicant: GRIESER TRUCKING CO., Rural Delivery No. 1, Box 151A, Archbold, OH 43502. Applicant's representative: Paul F. Beery, Suite 1660, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements and parts;* (1) from Neodesha, Kans., to the auction of Yoder & Frey located near Archbold; and (2) between the auction yard of Yoder & Frey, Inc., located near Archbold, on the one hand, and, on the other, points in Vermont, for 180 days. Supporting shipper: Yoder & Frey, Inc., Archbold, Ohio 43502. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Summit Street, Toledo, OH 43604.

No. MC 133240 (Sub-No. 25 TA) (Correction), filed September 27, 1971, published FEDERAL REGISTER October 16, 1971, corrected and republished in part as corrected this issue. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. NOTE: The purpose of this partial republication is to include Nashville, Tenn., as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 135231 (Sub-No. 3 TA), filed January 5, 1972. Applicant: P & C TRUCKING, INC., Post Office Box 117, Rural Route 2, Pinckneyville, IL 62274. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and unfinished lumber*, from Pinckneyville, Ill., to points in Macomb County, Mich., for 180 days. Supporting shipper: Clarence Heggemeier, Secretary, Perry County Lumber Co., Inc., Post Office Box 363, Pinckneyville, IL 62274. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 136293 (Sub-No. 1 TA), filed January 6, 1972. Applicant: LOUIE SENSKE AND JIM SENSKE, doing business as SENSKE & SON TRANSFER, 117 Fourth Avenue North, Crookston, MN 56716. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and advertising material pertaining thereto including accessories*, used in dispensing malt beverage, when moving in mixed shipments with malt beverages, from St. Louis, Mo., to Crookston, Minn., for 180 days. Supporting shipper: Nelson Beverages, Inc., 207 North Nelson, Crookston, MN 56716. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 136294 TA, filed January 6, 1972, Applicant: PETER HASLER, INC., doing business as D & L TRANSPORTATION COMPANY, 6 Misty Ridge Circle, Kinnelon, NJ 07405. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers, and plastic tops*, from New York and Sloatsburg, N.Y., and Bergen, Essex, Hudson, Monmouth, Morris, Passaic, and Union Counties, N.J., to points in the United States east of the Mississippi River, and St. Joseph and St. Louis, Mo., for 180 days. Supported by: There are approximately 17 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136295 TA, filed January 6, 1972. Applicant: EXPRESSWAY MESSENGER SERVICE, INC., 2524 Maryland Avenue, Baltimore, MD 21218. Applicant's representative: Richard V. Parr, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Graphic art proofs, processed art work and advertising materials related thereto;* (2) *commercial printing* (not including newspapers or magazines) moving in quantities not exceeding an aggregate weight of 200 pounds per shipment from one consignor to one consignee; and (3) *interoffice communications and papers* (not including money, bonds, securities, checks, bank drafts, or other items of inherent value), moving in envelopes, pouches, boxes, or packages, between points in the commercial zone of Baltimore, Md., on the one hand, and points in the commercial zone of the District of Columbia, on the other, for 180 days.

Supported by: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 136297 TA, filed January 6, 1972. Applicant: CHARLES F. CAMPBELL, 612 North Walnut, Champaign, IL 61820. Applicant's representative: George B. Gillespie, 217 South Seventh Street, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, on traffic having a prior or subsequent movement by air), between O'Hara International Airport, and Champaign, Ill., for 180 days. Supporting shippers: Five Star Air Freight Corp.; A.B.C. Air Freight; Imperial Air Freight Service, Inc.; Airborne Freight Corp.; Novo Air Freight Corp.; Associated Air Freight; Mark IV Air Freight; Jet Air Freight Inc. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136298 TA, filed January 6, 1972. Applicant: NORTHWEST TRUCK CORP., 2621 Whittle Avenue, Medford, OR 97501. Applicant's representative: Seymour L. Coblens, Corbett Building, Portland, Oreg. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and shingles*, from Forks and Amanda Park, Wash., to points in California, pursuant to continuing contracts with Justus Shake Co., North Shore Shake Mill, and Olympic Manufacturing Co., for 180 days. Supporting shippers: Justus Shake Co., Post Office Box 711, Forks, WA 98331; North Shore Shake, 114 West Chenault, Hoquiam, WA 98550; Olympic Manufacturing Co., Post Office Box 721, Amanda Park, WA 98526. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–796 Filed 1–18–72;8:49 am]

[Notice 4]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 14, 1972.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73309. By order of January 13, 1972, the Motor Carrier Board approved the transfer to Michael Storage Co., Inc., Bronx, N.Y., of the operating rights in certificate No. MC–15904 issued July 9, 1958, to Enrico Cruciani, doing business as Michael Storage Co., Bronx, N.Y., authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, New York, and Pennsylvania, Alvin Altman, 1776 Broadway, New York, NY 10019, attorney for applicants.

No. MC–FC–73367. By order of January 5, 1972, the Motor Carrier Board approved the transfer to John F. Goetjen and Son, Inc., Wilton, Conn., of the operating rights in certificate No. MC–32571 issued December 23, 1971, to S. Rashba & Sons, Inc., New Haven, Conn., authorizing the transportation of household goods between New Haven, Conn., and points in Connecticut within 20 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Massachusetts, Rhode Island, Pennsylvania, Vermont, New Hampshire, Maryland, and the District of Columbia. Sidney L. Goldstein, 109 Church Street, New Haven, CT 06510, attorney for transferee, Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117, attorney for transferor.

No. MC–FC–73383. By order of January 13, 1972, the Motor Carrier Board approved the transfer to Margate Corp., doing business as King Transport, Inc., Worthington, Ohio, of the operating rights in permit No. MC–133611 (Sub-No. 1) issued May 26, 1970, to King Transport, Inc., Worthington, Ohio, authorizing the transportation of iron and steel products as described in Ex Parte 45 from the plantsite of The Brown Steel Co. at Columbus, Ohio, to points in Cabell, Jackson, Mason, Pleasants, Wayne, and Wood Counties, W. Va., and Boyd and Greenup Counties, Ky., A. Charles Tell, 100 East Broad Street, Columbus, OH 43215, attorney for applicants.

No. MC–FC–73397. By order of January 13, 1972, the Motor Carrier Board approved the transfer to Weathers, Inc., Salina, Kans., of certificate No. MC–44484, issued July 2, 1963, to Charles W. Weathers, Jr., authorizing the transportation of: Motion picture films, accessories, and advertising matter, between Salina, Kans., on the one hand, and, on the other, points in Kansas; and frosted and frozen foods, from Salina, Kans., to points in specified areas in Kansas. Charles W. Weathers, Rural Route No. 2, Box 10A, Salina, KS 67401, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–797 Filed 1–18–72;8:49 am]

[Notice 4–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 14, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–73433. By application filed January 11, 1972, AMERICAN FREIGHT LINE, INC., 950 Liberty, Kansas City, MO 64101, seeks temporary authority to lease the operating rights of ROY R. CASWELL, 102 South Third, Post Office Box 375, Louisburg, KS 66053, under section 210a(b). The transfer to AMERICAN FREIGHT LINE, INC., of the operating rights of ROY R. CASWELL, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–798 Filed 1–18–72;8:49 am]

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WEDNESDAY, JANUARY 19, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 12

PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

■

Rough Rice, Brown Rice, and Milled Rice

Proposed U.S. Standards

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 68]

ROUGH RICE, BROWN RICE, AND MILLED RICE

Proposed U.S. Standards

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090, as amended (7 U.S.C. 1622, 1624) notice is hereby given according to the administrative procedure provisions of 5 U.S.C., section 553, that the U.S. Department of Agriculture has under consideration a proposed revision of the U.S. Standards for Rough Rice (7 CFR 68.201 et seq.), Brown Rice (7 CFR 68.251 et seq.), and Milled Rice (7 CFR 68.301 et seq.).

Statement of considerations. The Agricultural Marketing Act of 1946, as amended, provides for the issuance by the Secretary of Agriculture of standards with respect to the quality, condition, quantity, grade, and packaging of agricultural commodities for the voluntary use by producers, merchandisers, processors, and consumers in the marketing of these commodities. Official grading service is provided under the Act upon request of the applicant and payment of a fee to cover the cost of the service.

Comments and recommendations from the Rice Inspection Industry Advisory Committee, the Rice Millers' Association, and representatives of the California rice industry, and a comprehensive review by the Department indicate that certain changes in the U.S. Standards for Rough Rice, Brown Rice, and Milled Rice should be proposed.

One provision of the amendment would change the definition of milling yield of rough and brown rice. Milling yield of rough and brown rice is now an estimate of the quantity of head rice and of total milled rice that can be produced from a unit of rough or brown rice. If adopted, the amendment would delete the term "head rice" (which may contain some broken kernels) and substitute "whole kernels" so that milling yield would be defined as the estimated amount of "whole kernels and total milled rice." In most instances, this amendment will not affect the cash value of rough or brown rice because practically all cash values are now determined on the basis of whole kernels and total milled rice. Although the "whole kernel milling yield" would be less than the "head rice milling yield," USDA's Agricultural Stabilization and Conservation Service said that the change would not affect the loan value of rough rice because loan values would be established at a higher level based on the whole kernel yield. Also, USDA's Export Marketing Service said that payments under the export program would not be affected because payments are already made on the basis of whole kernels and total milled rice.

The proposed changes which are applicable to more than one standard are presented first, followed by changes applicable to an individual standard. The proposed changes are as follows:

Changes applicable to the rough rice, brown rice, and milled rice standards.

1. Delete the section numbers under "Terms Defined" and arrange the definitions in alphabetical order—for ease in use.

2. Delete the definition for "Grades"—the term is adequately defined in "Grades, Grade Requirements, and Grade Designations."

3. Provide a new section "References" to list publications referenced in the standards—for ease in use and ready reference.

4. Provide a new section "Interpretive line samples"—to identify such samples and to show where they can be viewed.

5. Add a new term "Types of rice" and change the term "Rice of other classes" to "Other types"—to make a distinction between types of rice; i.e., long grain, medium grain, or short grain, and classes of rice which may contain combinations of long, medium, and short grain rice.

6. Provide that the class (type) of broken kernels would be determined on the basis of width, thickness, and shape—the length/width ratio used in determining the class (type) of whole kernels cannot be used for determining the class (type) of broken kernels.

7. Amend the definition for "Rice of other classes" (other types) to provide that when broken kernels of long grain rice are present in medium or short grain rice, and when broken kernels of medium grain rice or short grain rice are present in long grain rice they would be considered "other classes" (other types), but that when broken kernels of medium grain rice are present in short grain rice and when broken kernels of short grain rice are present in medium grain rice they would not be considered "other classes" (other types)—it is considered practicable to distinguish between broken kernels of long grain rice in medium or short grain rice, and broken kernels of medium grain rice or short grain rice in long grain rice, but not between broken kernels of medium grain rice in short grain rice or broken kernels of short grain rice in medium grain rice.

8. Redefine "Damaged kernels" so that "Heat-damaged kernels" shall function only as heat-damaged kernels—to avoid duplicate scoring of this factor.

9. Redefine "Heat-damaged kernels" to provide that parboiled kernels shall function as heat-damaged kernels when they are as dark as, or darker in color than, the interpretive line for heat-damaged kernels—to establish a guideline for scoring parboiled kernels in nonparboiled rice.

10. Provide a definition for "Ungelatinized kernels"—it is a grade determining factor in parboiled rice and is not presently defined.

11. Provide that mechanical sizing of kernels shall be adjusted by handpicking as prescribed in the Rice Inspection Manual or by any method which gives equivalent results—to conform with approved inspection procedures.

12. Provide that moisture content shall be determined in accordance with procedures set forth in the equipment manual or by any method which gives equivalent results—to conform with approved inspection procedures.

13. Provide that percentages shall be stated to the nearest whole, tenth, or hundredth percent, as warranted, and shall be rounded off in accordance with procedures shown in the Rice Inspection Manual—there is no provision in the present standards for "rounding off" percentages.

14. Delete, in the definition of classes, reference to "Agriculture Research Service, U.S. Department of Agriculture (Agriculture Handbook No. 289)"—this publication is out of print; information contained therein, pertinent to determining class (types) of rice, will be included in the Rice Inspection Manual.

15. Provide minor procedural and editorial changes.

Changes applicable to the rough rice and brown rice standards. 1. Delete the term "Head rice" from the standards and express milling yield as whole kernels and total milled rice—to show the actual milling outturn of rough or brown rice.

2. Delete the term "Total milled rice"—it is included in the term "Milling yield."

3. Redefine "Milling yield" by (a) substituting "whole kernels" for "head rice" and (b) specifying that the milling shall be on a "well milled" basis—to establish the approved degree of milling for determining milling yield.

4. Provide a definition for "Smutty kernels"—the term is used in the special grade "Smutty."

5. Provide a definition for "Milling requirements" to require that the degree of milling shall be equal to, or better than, that of the interpretive line for "well milled" rice—to further specify the required degree of milling.

6. Provide that the "milling yield determination" shall be made as prescribed in the Rice Inspection Manual or by any method which gives equivalent results—to specify the equipment and methods to be used in determining milling yield.

7. Provide, in the sections relating to "Percentages," that milling yield shall be stated to the nearest whole percent (it is presently stated in terms of whole and half percents)—milling yield is an estimate and the determination is not precise enough to be stated in increments of half percent.

8. Provide a special grade "Smutty" for rough and brown rice which contains more than 3.0 percent of smutty kernels—at present there is no specific provision for scoring smutty kernels in rough rice and although smutty kernels function as damaged kernels in brown rice, there are no specific limits for smutty kernels in brown rice.

Changes applicable to the rough rice and milled rice standards. Delete in the definition for "Red rice" the statement "kernels and pieces of kernels of rice which are distinctly red in color"—only kernels and pieces of kernels on which there is an appreciable amount of red bran are considered red rice.

Changes applicable to the brown rice and milled rice standards. 1. Add "Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material." to the definition for "Foreign material"—to conform with approved inspection procedures.

2. Delete "/64" from all sieve designations and the terms "No." and "sizing" from all sizing plate designations—to simplify writing or typing inspection certificates.

3. Provide that the determination for broken kernels shall be made as prescribed in the Rice Inspection Manual or by any method which gives equivalent results—to conform with approved inspection procedures.

4. Provide in the grade tables, where applicable, that plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used—to conform: with approved inspection procedures.

Changes applicable to the rough rice standards. 1. Redefine "Classes" to show that types of rice shall be determined on the basis of the whole kernels of milled rice that are produced in the milling of rough rice to a well-milled degree—to clarify approved inspection practices.

2. Delete all references to the terms "Large broken kernels", "Dockage", and "Test weight per bushel"—these terms are not class or grade-determining factors, and serve no useful purpose in the standards. These terms will be included in the Rice Inspection Manual for use in determining, upon request of the applicant, the quality of rice under specifications other than the standards.

3. Provide that the basis of determination for the special grade "Parboiled rough rice" and types of rice when determining class shall be the whole kernels of milled rice that are produced in the milling of rough rice to a well-milled degree—to conform with approved inspection procedures.

4. Provide that the factor "Smutty kernels" shall be determined on the basis of the rice remaining after cleaning and shelling a sample of rough rice—to conform with approved inspection procedures.

Changes applicable to the brown rice standards. 1. Provide that the U.S. "Standards for Brown Rice" shall be "Standards for Brown Rice for Processing"—almost all of the brown rice produced in the United States is exported and milled at destination. The standards should show that they are standards for rice for processing as compared to rice for direct consumption.

2. Delete all references to "dead weevils or other dead insects, insect webbing, or insect refuse" as these materials are removed during processing.

NOTE: If brown rice is intended for direct consumption, the applicant for inspection may request that a statement substantially as follows be shown in "Remarks" on the inspection certificate, provided the statement is factual: "This rice was free of live or dead insects, insect webbing, or insect refuse at the time of inspection."

This statement would be authorized in the Rice Inspection Manual.

3. Raise the moisture limit in the numerical grades from 14.0 to 14.5 percent—this would be midway between the limits for rough rice and milled rice and would reflect current trade specifications.

4. Provide that the following be determined on the basis of the brown rice after milling to a well-milled degree:

Kernels damaged by heat,
Parboiled kernels in nonparboiled rice,
Heat damaged kernels, and
The special grade Parboiled brown rice.

These factors cannot be accurately determined on brown rice until it has been milled.

5. Change the term "Milled rice" to "Well-milled kernels"—to clearly define the degree to which the kernels need to be milled.

6. Provide definitions for "Brown rice" and "Brown rice for processing"—these terms will be used in the standards.

7. Delete all reference to "Milling yield of broken brown rice", "Second head milled rice", "Screenings milled rice", "Brewers milled rice", "4/64 sieve", "5½/64 sieve", "6/64 sieve", and "No. 5 sizing plate"—these terms are not class or grade-determining factors and serve no useful purpose in the standards. These terms will be included in the Rice Inspection Manual for use in determining, upon request of the applicant, the quality of rice under specifications other than the standards.

8. Delete in the definition for "Red rice" the statement "kernels and pieces of kernels of rice which are distinctly red in color"—only kernels and pieces of kernels on which the bran is red are considered red rice.

Changes applicable to milled rice. 1. Redefine the special grade "Undermilled milled rice" to show the requirements for this special grade—to conform with approved inspection procedures.

2. Define "Well-milled kernels"—this term is used in the special grade "Undermilled milled rice".

3. Define a "30 sieve"—the material passing through this sieve will be a scoring factor in Screenings Milled Rice and Brewers Milled Rice.

4. Raise the chalky kernel limit from 3.0 to 4.0 percent and from 5.0 to 6.0 percent for grades U.S. No. 1 and U.S. No. 2, respectively, in the table for grades and grade requirements for the class "Second Head Milled Rice"—to more nearly reflect current crop quality.

5. Provide maximum limits as follows for grades U.S. No. 1 to U.S. No. 4, inclusive, in the tables for grades and grade requirements for the class "Screenings Milled Rice" and "Brewers Milled Rice": (1) 3.0 percent of heat-damaged kernels, kernels damaged by heat, and parboiled kernels in nonparboiled rice (singly or combined)—rice which is damaged by heat, heat-damaged, or parboiled detracts from the proper conversion of rice starch to sugar in the brewing process (2) 1.0 percent of material passing through a 30 sieve—material passing through a 30 sieve (powdery material) is not usable in the brewing process and is usually lost in handling. Maximum limits are needed for these factors for uniform application.

6. Provide a definition for "Brown rice"—the term is used in the standards but is not defined.

7. Delete in "Grade designations for Milled Rice" the statement: "The degree of milling; i.e., 'well milled,' 'reasonably well milled,' or 'lightly milled', shall be shown under 'remarks' on all inspection certificates of grade."—this requirement will be provided for in the Rice Inspection Manual.

8. Redefine "Milled rice" to provide that "paddy kernels" be included in the limit for seeds, or foreign material, either singly or combined—paddy kernels are allowed in the grade tables for milled rice, but are not provided for in the definition for "Milled rice".

A possible change was considered which would have provided that rice of other classes in broken kernels be disregarded in grades U.S. No. 5 and lower in the grade table for Long, Medium, and Short Grain, and Mixed Milled Rice. After careful consideration it was concluded that the proposed change in the definition of "Rice of other classes" would, in part, achieve the desired flexibility which the change in percentage of broken kernels of "Rice of other classes" would have provided, without jeopardizing the cooking quality of grades U.S. No. 5 and lower.

The revised standards would read as follows:

U.S. STANDARDS FOR ROUGH RICE [1]

TERMS DEFINED

§ 68.201 Definitions.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Chalky kernels.* Whole kernels of rice which are one-half or more chalky.

(c) *Classes.* There are four classes of rough rice as follows:

Long grain rough rice.
Medium grain rough rice.
Short grain rough rice.
Mixed rough rice.

Classes shall be based on the percentage of whole kernels and types of rice.

(1) "Long grain rough rice" shall consist of rough rice which contains more than 25.0 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10.0 percent of whole kernels of medium or short grain rice.

(2) "Medium grain rough rice" shall consist of rough rice which contains more than 25.0 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10.0 percent of whole kernels of long- or short-grain rice.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(3) "Short grain rough rice" shall consists of rough rice which contains more than 25.0 percent of whole kernels and which, after milling to a well-milled degree, contains not more than 10.0 percent of whole kernels of long- or medium-grain rice.

(4) "Mixed rough rice" shall consists of rough rice which contains more than 25.0 percent of whole kernels and which, after milling to a well-milled degree, contains more than 10.0 percent of "other types" as defined in paragraph (h) of this section.

(d) *Damaged kernels.* Whole kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means, and whole kernels of parboiled rice in nonparboiled rice. "Heat-damaged kernels" (see paragraph (e) of this section) shall not function as damaged kernels.

(e) *Heat-damaged kernels.* Whole kernels of rice which are materially discolored and damaged as a result of heating, and whole kernels of parboiled rice in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(f) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that are produced in the milling of rough rice to a well-milled degree.

(g) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(h) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice and medium- or short-grain rice in long-grain rice, (ii) medium-grain rice in long- or short-grain rice and long- or short-grain rice in medium-grain rice, (iii) short-grain rice in long- or medium-grain rice and long- or medium-grain rice in short-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice.

NOTE: Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(i) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(j) *Red rice.* Whole kernels of rice on which there is an appreciable amount of red bran.

(k) *Rough rice.* Rice (*Oryza sativa*) which consists of 50.0 percent or more of paddy kernels (see paragraph (i) of this section) of rice.

(l) *Seeds.* Whole or broken seeds of any plant other than rice.

(m) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(n) *Types of rice.* There are three types of rough rice as follows:

Long grain.
Medium grain.
Short grain.

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.208).

(o) *Ungelatinized kernels.* Whole kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(p) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.202 Basis of determinations.

The determination of seeds, objectionable seeds, heat-damaged kernels, red rice and damaged kernels, chalky kernels, other types, color, and the special grade parboiled rough rice shall be on the basis of the whole kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. When determining class the percentage of (a) whole kernels of rough rice shall be determined on the basis of the original sample and (b) types of rice shall be determined on the basis of the whole kernels of milled rice that are produced in the milling of rough rice to a well-milled degree. Smutty kernels shall be determined on the basis of the rough rice after it has been cleaned and shelled as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.208), or by any method which gives equivalent results. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.208), or by any method which gives equivalent results.

§ 68.203 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual examinations shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.204 Milling requirements.

In determining milling yield (see § 68.201(f)) in rough rice, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well milled" rice.

§ 68.205 Milling yield determination.

Milling yield shall be determined by the use of equipment and procedures set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.208), or by any method which gives equivalent results.

NOTE: Milling yield shall not be determined when the moisture content of the rough rice exceeds 18.0 percent.

§ 68.206 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6 (see § 68.208), or by any method which gives equivalent results.

§ 68.207 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.208). Percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. The percentage for milling yield shall be stated to the nearest whole percent.

§ 68.208 References.

The following publications are referenced in these standards. Copies will be made available, upon request, from the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture:

(a) Rice Inspection Manual, GR Instruction 918–2, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.209 Grades and grade requirements for the classes of rough rice. (See also § 68.211.).

Grade	Maximum limits of—						
	Seeds and heat-damaged kernels		Red rice and damaged kernels (singly or combined)	Chalky kernels [1]		Other types [2]	Color requirements [1]
	Total (singly or combined)	Heat—damaged kernels and objectionable seeds (singly or combined)		In long grain rice	In medium or short grain rice		
	Number in 500 grams	*Number in 500 grams*	*Percent*	*Percent*	*Percent*	*Percent*	
U.S. No. 1	2	1	0.5	1.0	2.0	1.0	Shall be white or creamy.
U.S. No. 2	4	2	1.5	2.0	4.0	2.0	May be slightly gray.
U.S. No. 3	7	5	2.5	4.0	6.0	3.0	May be light gray.
U.S. No. 4	20	15	4.0	6.0	8.0	5.0	May be gray or slightly rosy.
U.S. No. 5	30	25	6.0	10.0	10.0	10.0	May be dark gray or rosy.
U.S. No. 6	75	75	[3] 15.0	15.0	15.0	10.0	May be dark gray or rosy.
U.S. Sample grade	U.S. Sample grade shall be rough rice which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6 inclusive, (b) contains more than 14.0 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, or (e) is otherwise of distinctly low quality.						

[1] For the special grade Parboiled rough rice see § 68.211 (a).
[2] These limits do not apply to the class Mixed Rough Rice.
[3] Rice in grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§ 68.210 Grade designation.

The grade designation for all classes of rough rice, except Mixed Rough Rice, shall include in the following order: (a) The letters "U.S."; (b) the number of the grade or the words "Sample grade", as warranted; (c) the class; (d) each applicable special grade (see § 68.212); and (e) a statement of the milling yield. The grade designation for the class Mixed Rough Rice shall include, in the following order: (f) The letters "U.S."; (g) the number of the grade or the words "Sample grade", as warranted; (h) the class; (i) each applicable special grade (see § 68.212); (j) the percentage of whole kernels of each type in the order of predominance; and (k) a statement of the milling yield.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.211 Special grades and special grade requirements.

The following special grades are established for rough rice. Except as provided in this section, all grades and grade requirements of the standards shall apply to such rice.

(a) *Parboiled rough rice.* Parboiled rough rice shall be rough rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6 inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark". The color levels for "Parboiled Light", "Parboiled", and "Parboiled Dark" rice shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for "Chalky kernels" and the "Color requirements" shown in § 68.209 are not applicable to the special grade "Parboiled rough rice".

(b) *Smutty rough rice.* Smutty rough rice shall be rough rice which contains more than 3.0 percent of smutty kernels.

(c) *Weevily rough rice.* Weevily rough rice shall be rough rice which is infested with live weevils or other live insects injurious to stored rice.

§ 68.212 Special grade designation.

The grade designation for parboiled, smutty, or weevily rough rice shall include, following the class, the word(s) "Parboiled Light", "Parboiled", "Parboiled Dark", "Smutty", or "Weevily", as warranted, and all other information prescribed in § 68.210.

U.S. STANDARDS FOR BROWN RICE FOR PROCESSING [1]

TERMS DEFINED

§ 68.251 Definitions.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Brown rice for processing.* Rice (*Oryza sativa*) which consists of more than 50.0 percent of kernels of brown rice, and which is intended for processing to milled rice.

(d) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

(e) *Classes.* There are four classes of brown rice for processing:

Long grain brown rice for processing.
Medium grain brown rice for processing.
Short grain brown rice for processing.
Mixed brown rice for processing.

Classes shall be based on the percentage of whole kernels and types of rice.

(1) "Long-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of medium- or short-grain rice.

(2) "Medium-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of short-grain rice.

(3) "Short-grain brown rice for processing" shall consist of brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) "Mixed brown rice for processing" shall be brown rice for processing which contains more than 25.0 percent of whole kernels of brown rice and more than 10.0 percent of "other types" as defined in paragraph (k) of this section.

(f) *Damaged kernels.* Whole or broken kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means (including parboiled kernels in nonparboiled rice and smutty kernels). "Heat-damaged kernels" (see paragraph (h) of this section) shall not function as damaged kernels.

(g) *Foreign material.* All matter other than rice and seeds. Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(h) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretative line for heat-damaged kernels.

(i) *Milling yield.* An estimate of the quantity of whole kernels and total milled rice (whole and broken kernels combined) that are produced in the milling of brown rice for processing to a well-milled degree.

(j) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(k) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice and medium- or short-grain rice in long-grain rice, (ii) medium-grain rice in long- or short-grain rice and long- or short-grain rice in medium-grain rice, (iii) short-grain rice in long- or medium-grain rice and long- or medium-grain rice in short-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice.

NOTE: Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(l) *Paddy kernels.* Whole or broken unhulled kernels of rice.

(m) *Red rice.* Whole or broken kernels of rice on which the bran is distinctly red in color.

(n) *Seeds.* Whole or broken seeds of any plant other than rice.

(o) *Smutty kernels.* Whole or broken kernels of rice which are distinctly infected by smut.

(p) *Types of rice.* There are three types of brown rice for processing:

Long grain.
Medium grain.
Short grain.

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels of rice that are broken as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.259).

(q) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(r) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

(s) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(t) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, five thirty-second inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(u) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter, five thirty-second inch from center to center, with each row staggered in relation to the adjacent rows.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.252 Basis of determinations.

The determination of kernels damaged by heat, heat-damaged kernels, parboiled kernels in nonparboiled rice, and the special grade Parboiled brown rice for processing shall be on the basis of the broken rice for processing after it has been milled to a well-milled degree. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.259) or by any method which gives equivalent results.

§ 68.253 Broken kernels determinations.

Broken kernels shall be determined by the use of equipment and procedures set forth in the Rice Inspection Manual, GR Instruction 918–2 (see §68.259), or by any method which gives equivalent results.

§ 68.254 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.255 Milling requirements.

In determining milling yield (see § 68.251(i)) in brown rice for processing, the degree of milling shall be equal to, or better than, that of the interpretive line sample for "well milled" rice.

§ 68.256 Milling yield determination.

Milling yield shall be determined by the use of equipment and procedures set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.259), or by any method which gives equivalent results.

NOTE: Milling yield shall not be determined when the moisture content of the brown rice for processing exceeds 18.0 percent.

§ 68.257 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6 (see § 68.259), or by any method which gives equivalent results.

§ 68.258 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.259). Percentages, except for milling yield, shall be stated in whole and tenth percent to the nearest tenth percent. The percentage for milling yield shall be stated to the nearest whole percent.

§ 68.259 References.

The following publications are referenced in these standards. Copies will be made available, upon request, from the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture:

(a) Rice Inspection Manual, GR Instruction 918–2, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.260 Grades and grade requirements for the classes of brown rice for processing. (See also § 68.262.)

Grade	Maximum limits of—											
	Paddy kernels	Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined)	Chalky kernels [1]	Broken kernels					
		Total (singly or combined)	Heat-damaged kernels	Objectionable seeds			Total	Removed by a 6 plate or a 6½ sieve [2]	Other types [3]	Well-milled kernels		
	Percent	*Number in 500 grams*	*Number in 500 grams*	*Number in 500 grams*	*Number in 500 grams*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	20	10	1	2	1.0	2.0	5.0	1.0	1.0	1.0		
U.S. No. 2	2.0	40	2	10	2.0	4.0	10.0	2.0	2.0	3.0		
U.S. No. 3	2.0	70	4	20	4.0	6.0	15.0	3.0	5.0	10.0		
U.S. No. 4	2.0	100	8	35	8.0	8.0	25.0	4.0	10.0	10.0		
U.S. No. 5	2.0	150	15	50	15.0	15.0	35.0	6.0	10.0	10.0		
U.S. Sample grade.	U.S. Sample grade shall be brown rice for processing which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive, (b) contains more than 14.5 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, (e) contains more than 0.1 percent of foreign material, (f) contains live weevils or other live insects, or (g) is otherwise of distinctly low quality.											

[1] For the special grade Parboiled brown rice for processing see § 68.262(a).
[2] Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[3] These limits do not apply to the class Mixed Brown Rice for Processing.

§ 68.261 Grade designation.

The grade designation for all classes of brown rice for processing, except Mixed Brown Rice for Processing, shall include the following order: (a) The letters "U.S."; (b) the number of the grade or the words "Sample grade," as warranted; (c) the class; and (d) each applicable special grade (see § 68.263). The grade designation for the class Mixed Brown Rice for Processing shall include, in the following order: (e) The letters "U.S."; (f) the number of the grade or the words "Sample grade," as warranted; (g) the class; (h) each applicable special grade (see § 68.263); (i) the percentage of whole kernels of each type in the order of predominance; and when applicable (j) the percentage of broken kernels of each type in the order of predominance and (k) the percentage of seeds and foreign material.

NOTE: Broken kernels other than long grain, in Mixed Brown Rice for Processing, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.262 Special grades and special grade requirements.

The following special grades are established for brown rice for processing. Except as provided in this section, all grades and grade requirements of the standards shall apply to such rice.

(a) *Parboiled brown rice for processing.* Parboiled brown rice for processing shall be rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. Nos. 1 to 5 inclusive, shall contain not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent and grade U.S. No. 5 not more than 0.5 percent of nonparboiled rice.

NOTE: The maximum limits for "Chalky kernels" shown in § 68.260 are not applicable to the special grade "Parboiled brown rice for processing".

(b) *Smutty brown rice for processing.* Smutty brown rice for processing shall be rice which contains more than 3.0 percent of smutty kernels.

§ 68.263 Special grade designation.

The grade designation for parboiled or smutty brown rice for processing shall include, following the class, the word(s) "Parboiled" or "Smutty," as warranted, and all other information prescribed in § 68.261.

U.S. STANDARDS FOR MILLED RICE [1]

TERMS DEFINED

§ 68.301 Definitions.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Broken kernels.* Kernels of rice which are less than three-fourths of whole kernels.

(b) *Brown rice.* Whole or broken kernels of rice from which the hulls have been removed.

(c) *Chalky kernels.* Whole or broken kernels of rice which are one-half or more chalky.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

(d) *Classes.* There are seven classes of milled rice. The following four classes shall be based on the percentage of whole kernels and types of rice:

Long grain milled rice.
Medium grain milled rice.
Short grain milled rice.
Mixed milled rice.

The following three classes shall be based on the percentage of whole kernels and of broken kernels of different size:

Second head milled rice.
Screenings milled rice.
Brewers milled rice.

(1) "Long-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and not more than 10.0 percent of whole or broken kernels of medium or short grain rice.

(2) "Medium-grain milled rice" shall consist of milled rice which contains more 25.0 percent of whole kernels of milled rice and not more than 10.0 percent of whole or broken kernels of long grain rice or whole kernels of short-grain rice.

(3) "Short-grain milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and not more than 10.0 percent of whole or broken kernels of long-grain rice or whole kernels of medium-grain rice.

(4) "Mixed milled rice" shall consist of milled rice which contains more than 25.0 percent of whole kernels of milled rice and more than 10.0 percent of "other types" as defined in paragraph (j) of this section.

(5) "Second head milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.302 and 68.303, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 7.0 percent of broken kernels removed by a 6 plate, (*c*) 0.4 percent of broken kernels removed by a 5 plate, and (*d*) 0.05 percent of broken kernels passing through a 4 sieve (southern production); or

(ii) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 50.0 percent of broken kernels passing through a 6½ sieve, and (*c*) 10.0 percent of broken kernels passing through a 6 seive (western production).

(6) "Screenings milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.302 and 68.303, contains:

(i) Not more than (*a*) 25.0 percent of whole kernels, (*b*) 10.0 percent of broken kernels removed by a 5 plate, and (*c*) 0.2 percent of broken kernels passing through a 4 sieve (southern producton); or

(ii) Not more than (*a*) 25.0 percent of whole kernels and (*b*) 15.0 percent of broken kernels passing through a 5½ sieve; and more than (*c*) 50.0 percent of broken kernels passing through a 6½ sieve and (*d*) 10.0 percent of broken kernels passing through a 6 sieve (western production).

(7) "Brewers milled rice" shall consist of milled rice which, when determined in accordance with §§ 68.302 and 68.303, contains not more than 25.0 percent of whole kernels and which does not meet the kernel-size requirements for the class Second Head Milled Rice or Screenings Milled Rice.

(e) *Damaged kernels.* Whole or broken kernels of rice which are distintcly discolored or damaged by water, insects, heat, or any other means, and parboiled kernels in nonparboiled rice. "Heat-damaged kernels" (see paragraph (g) of this section) shall not function as damaged kernels .

(f) *Foreign material.* All matter other than rice and seeds. Hulls, germs, and bran which have separated from the kernels of rice shall be considered foreign material.

(g) *Heat-damaged kernels.* Whole or broken kernels of rice which are materially discolored and damaged as a result of heating and parboiled kernels in nonparboiled rice which are as dark as, or darker in color than, the interpretive line for heat-damaged kernels.

(h) *Milled rice.* Whole or broken kernels of rice (*Oryza sativa*) from which the hulls and at least the outer bran layers and a part of the germs have been removed; and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

(i) *Objectionable seeds.* Seeds other than rice, except seeds of *Echinochloa crusgalli* (commonly known as barnyard grass, watergrass, and Japanese millet).

(j) *Other types.* (1) Whole kernels of: (i) Long-grain rice in medium- or short-grain rice and medium- or short-grain rice in long-grain rice, (ii) medium-grain rice in long- or short-grain rice and long- or short-grain rice in medium-grain rice, (iii) Short-grain rice in long- or medium-grain rice and long- or medium-grain rice in short-grain rice, and (2) broken kernels of long-grain rice in medium- or short-grain rice and broken kernels of medium- or short-grain rice in long-grain rice.

NOTE: Broken kernels of medium-grain rice in short-grain rice and broken kernels of short-grain rice in medium-grain rice shall not be considered other types.

(k) *Paddy kernels.* Whole or broken unhulled kernels of rice, and whole or broken kernels of brown rice.

(l) *Red rice.* Whole or broken kernels of rice on which there is an appreciable amount of red bran.

(m) *Seeds.* Whole or broken seeds of any plant other than rice.

(n) *Types of rice.* There are three types of milled rice as follows:

Long grain.
Medium grain.
Short grain.

Types shall be based on the length/width ratio of kernels of rice that are unbroken and the width, thickness, and shape of kernels that are broken as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.308).

(o) *Ungelatinized kernels.* Whole or broken kernels of parboiled rice with distinct white or chalky areas due to incomplete gelatinization of the starch.

(p) *Well-milled kernels.* Whole or broken kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

NOTE: This factor is determined on an individual kernel basis and applies to the special grade Undermilled milled rice only.

(q) *Whole kernels.* Unbroken kernels of rice and broken kernels of rice which are at least three-fourths of an unbroken kernel.

(r) *5 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, five thirty-seconds of an inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(s) *6 plate.* A laminated metal plate 0.142-inch thick, with a top lamina 0.051-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, five thirty-seconds of an inch from center to center, with each row staggered in relation to the adjacent rows, and a bottom lamina 0.091-inch thick, without perforations.

(t) *2½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0391 (2½/64) inch in diameter, 0.075-inch from center to center, with each row staggered in relation to the adjacent rows.

(u) *4 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0625 (4/64) inch in diameter, one-eighth inch from center to center, with each row staggered in relation to the adjacent rows.

(v) *5 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0781 (5/64) inch in diameter, five thirty-seconds of an inch from center to center, with each row staggered in relation to the adjacent rows.

(w) *5½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0859 (5½/64) inch in diameter, nine sixty-fourths of an inch from center to center, with each row staggered in relation to the adjacent rows.

(x) *6 sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.0938 (6/64) inch in diameter, five thirty-seconds of an inch from center to center, with each row staggered in relation to the adjacent rows.

(y) *6½ sieve.* A metal sieve 0.032-inch thick, perforated with rows of round holes 0.1016 (6½/64) inch in diameter, five thirty-seconds of an inch from center to center, with each row staggered in relation to the adjacent rows.

(z) *30 sieve.* A woven wire cloth sieve having 0.0234-inch openings, with a wire diameter of 0.0154 inch, and meeting the specifications of American Society for Testing and Materials Designation E–11–61, as set forth in the Equipment Manual, GR Instruction 916–6 (see § 68.308).

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.302 Basis of determination.

All determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking, as set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.308), or by any method which gives equivalent results.

§ 68.303 Broken kernels determination.

Broken kernels shall be determined by the use of equipment and procedures set forth in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.308), or by any method which gives equivalent results.

§ 68.304 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade rice.

§ 68.305 Milling requirements.

The degree of milling for milled rice; i.e., "well milled," "reasonably well milled," and "lightly milled" shall be equal to, or better than, that of the interpretive line samples for such rice.

§ 68.306 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6 (see § 68.308), or by any method which gives equivalent results.

§ 68.307 Percentages.

Percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions in the Rice Inspection Manual, GR Instruction 918–2 (see § 68.308). Percentages shall be stated in whole, tenth, and hundredth percent to the nearest tenth or hundredth percent.

§ 68.308 References.

The following publications are referenced in these standards. Copies will be made available, upon request, from the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture:

(a) Rice Inspection Manual, GR Instruction 918–2, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADE, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.309 Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, Short-Grain Milled Rice, and Mixed-Milled Rice. (See also § 68.314.)

Grade	Maximum limits of—										
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined)	Chalky kernels [1]		Broken kernels				Other types [3]	Color [1] and milling requirements [4]
	Total	Heat-damaged kernels and objectionable seeds		In long grain rice	In medium or short grain rice	Total	Removed by a 5 plate [2]	Removed by a 6 plate [2]	Through a 6 sieve [2]		
	Number in 500 grams	*Number in 500 grams*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	
U.S. No. 1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	1.0	Shall be white or creamy and shall be well milled.
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	.06	.2	.2	2.0	May be slightly gray and shall be well milled.
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	.1	.8	.5	3.0	May be light gray and shall be at least reasonably well milled.
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	.4	2.0	.7	5.0	May be gray or slightly rosy and shall be at least reasonably well milled.
U.S. No. 5	30	25	[5] 6.0	10.0	10.0	35.0	.7	3.0	1.0	10.0	May be dark gray or rosy and shall be at least lightly milled.
U.S. No. 6	75	75	[5] 15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	May be dark gray or rosy and shall be at least lightly milled.
U.S. Sample grade	U.S. Sample grade shall be milled rice of any of these classes which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6 inclusive, (b) contains more than 15.0 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, (e) contains more than 0.1 percent of foreign material, (f) contains live or dead weevils or other insects, insect webbing, or insect refuse, or (g) is otherwise of distinctly low quality.										

[1] For the special grade Parboiled milled rice see § 68.314(c).
[2] Plates should be used for southern production rice and sieves should be used for western production rice, but any device or method which gives equivalent results may be used.
[3] These limits do not apply to the class Mixed Milled Rice.
[4] For the special grade Undermilled milled rice see § 68.314(d).
[5] Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§ 68.310 Grades and grade requirements for the class Second Head Milled Rice. (See also § 68.314.)

Grade	Maximum limits of—				Color [1] and milling requirements [2]
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined)	Chalky kernels [1]	
	Total	Heat-damaged kernels and objectionable seeds			
	Number in 500 grams	*Number in 500 grams*	*Percent*	*Percent*	
U.S. No. 1	15	5	1.0	4.0	Shall be white or creamy and shall be well milled.
U.S. No. 2	20	10	2.0	6.0	May be slightly gray and shall be well milled.
U.S. No. 3	35	15	3.0	10.0	May be light gray and shall be at least reasonably well milled.
U.S. No. 4	50	25	5.0	15.0	May be gray or slightly rosy and shall be at least reasonably well milled.
U.S. No. 5	75	40	10.0	20.0	May be dark gray or rosy and shall be at least lightly milled.
U.S. Sample grade	U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive, (b) contains more than 15.0 percent of moisture, (c) is musty, or sour, or heating, (d) has any commerciall) objectionable foreign odor, (e) contains more than 0.1 percent of foreign material, (fs contains live or dead weevils or other insects, insect webbing, or insect refuse, or (g) iy otherwise of distinctly low quality.				

[1] For the special grade Parboiled milled rice see § 68.314(c).
[2] For the special grade Undermilled milled rice see § 68.314(d).

§ 68.311 Grades and grade requirements for the class Screenings Milled Rice. (See also § 68.314.)

Grade	Maximum limits of—			Color [1] and milling requirements [2]
	Paddy kernels and seeds		Chalky kernels [1]	
	Total (singly or combined)	Objectionable seeds		
	Number in 500 grams	*Number in 500 grams*	*Percent*	
U.S. No. 1 [3 4]	30	20	5.0	Shall be white or creamy and shall be well milled.
U.S. No. 2 [3 4]	75	50	8.0	May be slightly gray and shall be well milled.
U.S. No. 3 [3 4]	125	90	12.0	May be light gray or slightly rosy and shall be at least reasonably well milled.
U.S. No. 4 [3 4]	175	140	20.0	May be gray or rosy and shall be at least reasonably well milled.
U.S. No. 5	250	200	30.0	May be dark gray or very rosy and shall be at least lightly milled.
U.S. Sample grade	U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive, (b) contains more than 15 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, (e) has a badly damaged or extremely red appearance, (f) contains more than 0.1 percent of foreign material, (g) contains live or dead weevils or other insects, insect webbing, or insect refuse, or (h) is otherwise of distinctly low quality.			

[1] For the special grade Parboiled milled rice see § 68.314(c).
[2] For the special grade Undermilled milled rice see § 68.314(d).
[3] Grades U.S. No. 1 to U.S. No. 4 inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[4] Grades U.S. No. 1 to U.S. No. 4 inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

§ 68.312 Grades and grade requirements for the class Brewers Milled Rice. (See also § 68.314.)

Grade	Maximum limits of—		Color [1] and milling requirements [2]
	Paddy kernels and seeds		
	Total (singly or combined	Objectionable seeds	
	Percent	*Percent*	
U.S. No. 1 [3 4]	0.5	0.05	Shall be white or creamy and shall be well milled.
U.S. No. 2 [3 4]	1.0	.1	May be slightly gray and shall be well milled.
U.S. No. 3 [3 4]	1.5	.2	May be light gray or slightly rosy and shall be at least reasonably well milled.
U.S. No. 4 [3 4]	3.0	.4	May be gray or rosy and shall be at least reasonably well milled.
U.S. No. 5	5.0	1.5	May be dark gray or very rosy and shall be at least lightly milled.
U.S. Sample grade	U.S. Sample grade shall be milled rice of this class which: (a) Does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive, (b) contains more than 15 percent of moisture, (c) is musty, or sour, or heating, (d) has any commercially objectionable foreign odor, (e) has a badly damaged or extremely red appearance, (f) contains more than 0.1 percent of foreign material, (g) contains more than 15 percent of broken kernels that will pass through a 2½ sieve, (h) contains live or dead weevils or other insects, insect webbing or insect refuse, or (i) is otherwise of distinctly low quality.		

[1] For the special grade Parboiled milled rice see § 68.314(c).
[2] For the special grade Undermilled milled rice see § 68.314(d).
[3] Grades U.S. No. 1 to U.S. No. 4 inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[4] Grades U.S. No. 1 to U.S. No. 4 inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice.

§ 68.313 Grade designation.

The grade designation for all classes of milled rice, except Mixed Milled Rice, shall include in the following order: (a) The letters "U.S."; (b) the number of the grade or the words "Sample grade", as warranted; (c) the class; and (d) each applicable special grade (see § 68.315). The grade designation for the class Mixed Milled Rice shall include, in the following order: (e) The letters "U.S."; (f) the number of the grade or the words "Sample grade", as warranted; (g) the class; (h) each applicable special grade (see § 68.315); (i) the percentage of whole kernels of each type in the order of predominance; and when applicable (j) the percentage of broken kernels of each type in the order of predominance and (k) the percentage of seeds and foreign material.

NOTE: Broken kernels other than long grain, in Mixed Milled Rice, shall be certificated as "medium or short grain."

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS AND SPECIAL GRADE DESIGNATIONS

§ 68.314 Special grades and special grade requirements.

The following special grades are established for milled rice. Except as provided in this section, all grades and grade requirements of the standards shall apply to such rice.

(a) *Coated milled rice.* Coated milled rice shall be milled rice which is coated, in whole or in part, with glucose and talc.

(b) *Granulated brewers milled rice.* Granulated brewers milled rice shall be milled rice which has been crushed or granulated so that 95.0 perecnt or more will pass through a 5 sieve, 70.0 percent or more will pass through a 4 sieve, and not more than 15.0 percent will pass through a 2½ sieve.

(c) *Parboiled milled rice.* Parboiled milled rice shall be milled rice in which the starch has been gelatinized by soaking, steaming, and drying. Grades U.S. No. 1 to U.S. No. 6 inclusive, shall contain

not more than 10.0 percent of ungelatinized kernels. Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 0.1 percent, grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rice. If the rice is: (1) Not distinctly colored by the parboiling process, it shall be considered "Parboiled Light"; (2) distinctly but not materially colored by the parboiling process, it shall be considered "Parboiled"; (3) materially colored by the parboiling process, it shall be considered "Parboiled Dark." The color levels for "Parboiled Light," "Parboiled," and "Parboiled Dark" shall be in accordance with the interpretive line samples for parboiled rice.

NOTE: The maximum limits for "Chalky kernels" and the "Color requirements" in §§ 68.309, 68.310, 68.311, and 68.312 are not applicable to the special grade "Parboiled milled rice."

(d) *Undermilled milled rice.* Undermilled milled rice shall be milled rice which is not equal to the milling requirements for "well milled," "reasonably well milled," and "lightly milled" rice (see § 68.305). Grades U.S. No. 1 and U.S. No. 2 shall contain not more than 2.0 percent, grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, grade U.S. No. 5 not more than 10.0 percent, and grade U.S. No. 6 not more than 15.0 percent, of well-milled kernels. Grade U.S. No. 5 shall contain not more than 10.0 percent of red rice and damaged kernels (singly or combined) and in no case more than 6.0 percent of damaged kernels.

NOTE: The "Color and milling requirements" in §§ 68.309, 68.310, 68.311, and 68.312 are not applicable to the special grade "Undermilled milled rice."

§ 68.315 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, or undermilled milled rice shall include, following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," or "Undermilled," as warranted, and all other information prescribed in § 68.313.

Comments and proposed effective date. If the proposed changes as set forth herein are adopted, it is intended that the changes be made effective on or about June 1, 1972.

For a reasonable period after the effective date, offices that inspect and grade rice would, upon request, show on inspection certificates the grades under both the new and the old standards.

Public hearings will not be held with respect to the above proposed amendments, but all persons who desire to submit written data, views, or recommendations in connection with these proposals may file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 45 days after the proposal has been published in the FEDERAL REGISTER. All comments filed will be available for public inspection during official hours of business (7 CFR 1.27(b)).

In deciding on the proposed changes in the aforementioned sections, consideration will be given to all written comments filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture.

Copies of the current standards for rough rice, brown rice, and milled rice may be obtained from the Director, Grain Division, Consumer and Marketing Service, 6505 Belcrest Road, Hyattsville, MD 20782, or from any field office of the Grain Division. Field office locations can be found in the telephone directory.

Signed at Washington, D.C., on January 10, 1972.

G. R. GRANGE,
Deputy Adminstrator,
Marketing Services.

[FR Doc.72-553 Filed 1-18-72;8:45 am]

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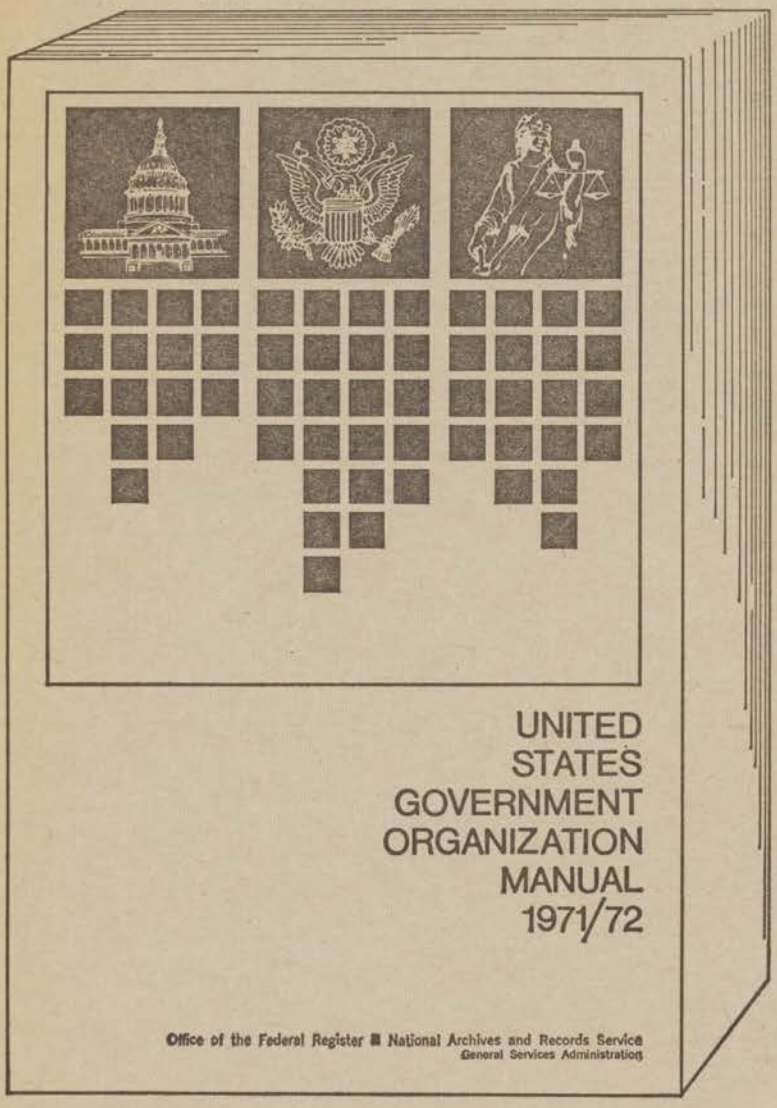

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